DEAN KOONTZ ON EVIL AND THE GREAT SOCIETY • THE AMAZING RANDI vs. THE QUADRO TRACKER

REASON®

Free Minds and Free Markets®

November 1996

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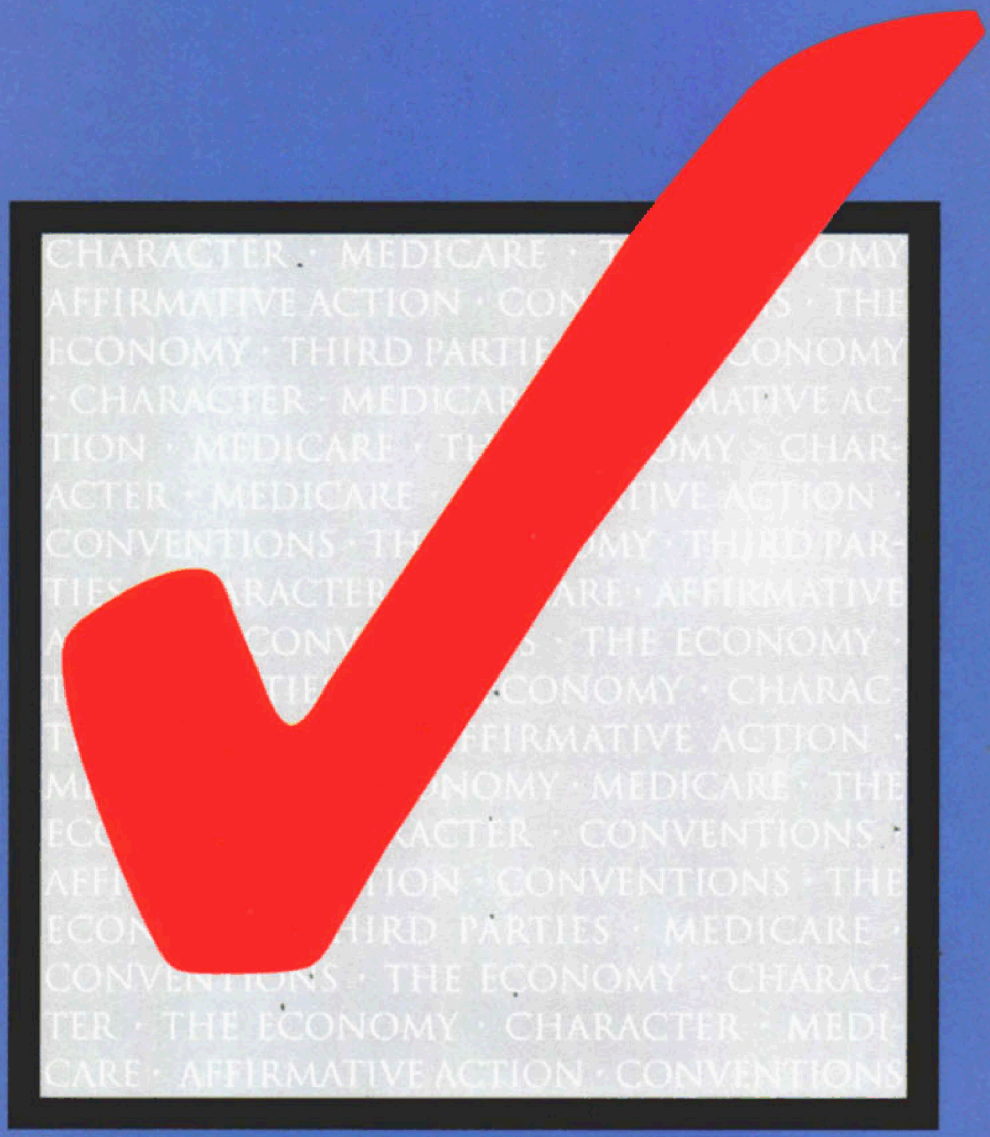
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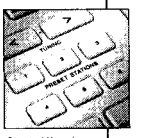

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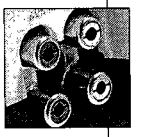

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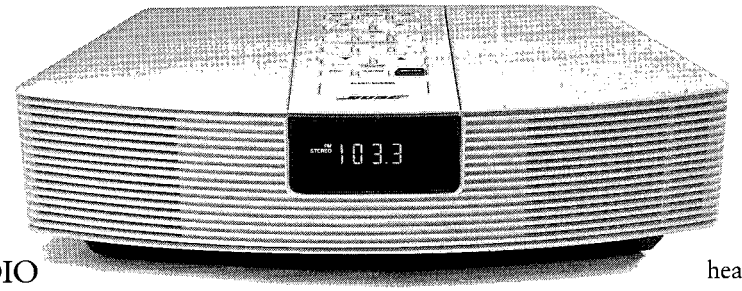

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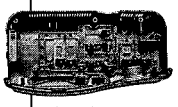

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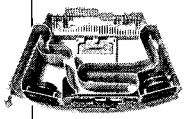

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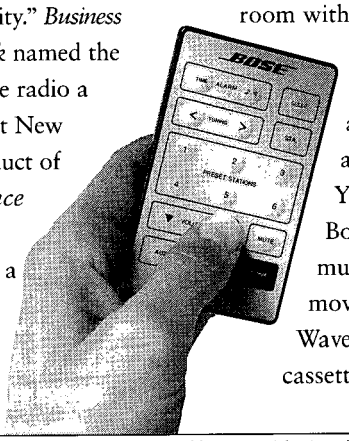

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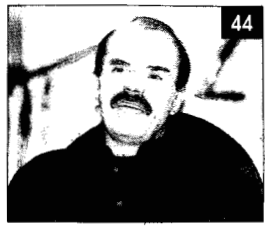

FEATURES

26 ■ Putting People On
Thomas W. Hazlett
The Pander Bear returns.

31 ■ The Best of Slime, The Worst of Slime
Thomas W. Hazlett
Winners and losers at the national conventions.

36 ■ After Affirmative Action
Michael Lynch
Racial preferences in a post–CCRI California.

40 ■ Clinton Confidential
Richard B. McKenzie
The best-kept secret of the Clinton years is economic.

44 ■ Contemplating Evil: An Interview with Dean Koontz
Nick Gillespie and Lisa Snell
Novelist Dean Koontz on Freud, fraud, and the Great Society.

50 ■ Box of Dreams
Brian Doherty
How a too-good-to-be-true tool fooled drug warriors.

EDITORIALS

4 ■ The Other Drug War
Virginia I. Postrel
The struggle over the FDA has little to do with tobacco, or even David Kessler.

8 ■ Weed Whackers
Jacob Sullum
Bill Clinton bashes fags, while Bob Dole takes pot shots.

COLUMNS

55 ■ Politics: Hail to the Crook?
Gary Alan Fine
Clinton and the politics of reputation.

58 ■ Movies: Independents' Day
Jesse Walker
New technology helps filmmakers go beyond Hollywood.

61 ■ Property Rights: A Desire Named Streetcar
Christopher Serres
Portland's light-rail system carries a heavy load.

74 ■ Selected Skirmishes: Morris the Cad
Thomas W. Hazlett
The personal becomes the political.

BOOKS

64 ■ The Adventures of "But-Man"
John J. Pitney
Between Hope and History: Meeting America's Challenges for the 21st Century, *by Bill Clinton*

66 ■ What's the Big Idea?
Chandran Kukathas
Isaiah Berlin, *by John Gray*

71 ■ Evolving Door
Gregory Benford
Evolution Isn't What It Used to Be, *by Walter Truett Anderson*

DEPARTMENTS

10 ■ Letters
Uncompromising reactions...

20 ■ Brickbats
A clumsy thief who isn't all thumbs...

22 ■ Trends
Unlocking encryption, initiative highs...

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The Other Drug War

By Virginia I. Postrel

The struggle over the FDA is our latest culture war.

JENNIFER COX COULD BARELY BREATHE. Bronchial asthma and a seizure disorder had not only driven her home from college but left her so weak she couldn't cross the room. Asthma medicine exacerbated the seizures, and the only drugs approved to treat the seizures themselves had terrible complications: One made her chest and respiratory muscles cramp constantly. Another destroyed her bone marrow. The remaining alternative, a three-drug cocktail, gave her tremors, double vision, and balance problems.

After nine years of fighting the seizures, and nearly a lifetime with asthma, Cox was getting worse and worse. At 20, all she had to look forward to was terrible pain and imminent death.

Which apparently would have been just fine with Dr. David Kessler and his good friends at *The New York Times*, Public Citizen, the Center for Science in the Public Interest, the Women's Health Network, and various other bastions of paternalism. All rallied this summer to defend the power of the Food and Drug Administration to keep medicine out of the hands of people like Jennifer Cox. In articles, press conferences, and TV appearances, they waged an all-out campaign to protect the agency's ever-expanding authority from congressional curbs. They scornfully dismissed critics as "industry-inspired." A two-page puff piece, concluding that "the FDA has become a prime example of government that works," even made it into the fashion-laden pages of *George*. Public Citizen's Sidney Wolfe, writing in the *Los Angeles Times*, declared that when critics "complain of the U.S. lagging behind other countries in terms of new products approvals, they are really talking about arthritis or headache pills, not drugs that would have a more important impact."

Fortunately, Cox had a doctor who refused to accept the FDA's answers—or Wolfe's sense of what's important. Allergist Stuart Rusnak took his search for a cure abroad, cruising the World Wide Web. In less than an hour, he discovered a drug that has been used in Europe and Canada for a whopping 10 years but is still officially denied to Americans. By contacting the doctor heading an international study on the drug, Rusnak found a pharmacy in the Bahamas that would take a phone order and ship the medicine overnight. Thanks largely to cantankerous AIDS activists, a regulatory loophole allows Americans to legally import small quantities of otherwise unapproved drugs. And thanks to the unapproved drug, called Sabril, Cox got her life back.

"I've noticed that I can laugh. And it's all right," she told the *Honolulu Advertiser*'s Mike Gordon. "It's a little thing, but simple pleasures can mean a lot. I can go out and sit on the beach. I can eat at a deli. I can go to a movie." Nothing important, Dr. Wolfe. Just life.

I READ COX'S STORY NOT IN A THINK TANK document designed to sway Washington opinion, but in a newspaper I picked up on vacation. It was a front-page article, true, yet utterly without political context—just a well-told human-interest feature about a local doctor who'd solved a patient's problem using a cool new communications technology.

The assumptions of the story were radical, however; the kind that upset people like Wolfe and Kessler, that rock the world according to *George* and *The New York Times*. Doctor, patient, and reporter all took for granted that Cox and Rusnak had the right to choose what was best for her; that a woman dying at 20 shouldn't have borders and regulations standing between her and a chance to live; that medical information should flow freely; and that practicing good medicine may mean looking in non-obvious places. Doctor, patient, and reporter also figured that if Europeans and Canadians had been using a drug for half Cox's lifetime, those patients and their doctors probably had discovered whether the drug worked, or had dangerous side effects, even without the help of American bureaucrats.

As the Internet grows, we will hear more such stories. Not all will have such happy endings: The easy flow of information in cyberspace can also promote quackery and innocent-but-ineffective treatments. But enough doctors will find answers, and enough patients relief, to create a serious challenge to the FDA's monopoly powers. We are in the early stages of another culture war—one of those political clashes driven not by interest-group jockeying, socioeconomic association, or party alignment but by fundamentally different values and world views. Paternalistic technocrats are rushing to defend an agency whose powers cannot, over the long run, withstand the free flow of information. In the short run, however, the fighting will be vicious.

In a cover story published in early August, Jeffrey Goldberg of *The New York Times Magazine* strove mightily to portray this new drug war as a struggle between science and barbarism, sophisticates and hicks—or, when really desperate, good government and lying tobacco companies. Interviewing none of the economists who study "drug lag," he caught some Washington types unable to name unapproved drugs that could save lives. And, echoing FDA propaganda, he confused bureaucratic delay—the time it takes the agency to process a completed

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application, a lag the FDA has reduced—with the real issue, which is the 12 years and $350 million in expenses that U.S. regulations soak up before a new drug makes it to a final application.

By his own admission, Goldberg not only dined at the Kesslers' home but routinely worries about the dangers of eating salad dressing. He is on one side of a cultural chasm—and he senses it. "It doesn't take long," he writes, "in fact, for some of the F.D.A.'s detractors to veer away from specific, policy-based criticisms to a sort of amorphous, class-based attack rooted in the cultural divide between Eastern, Government-friendly elites and everybody else." Neither class nor education has much to do with the issue, of course. And it's hard to take seriously a plea for policy-based arguments from a man whose research not only avoided all economists but included not so much as a friendly medical school professor. If the reporting begins and ends in Washington, the subject is politics, not policy: *government-friendly* elites vs. everybody else.

And that is, in fact, the issue. This dispute cannot be resolved by addressing a few "specific, policy-based criticisms." There is no technocratic fix, because there can be no risk-free drug-delivery system. Denying people medicine has risks. So does allowing people medicine. The real question, then, is who decides: a question of political philosophy, not neat-and-tidy policy. And on that question, stories like Cox's will, over time, make an enormous difference. There is a reason abortion-rights activists adopted the phrase "pro-choice," and why school-voucher advocates use similar language. Americans don't like being bossed around. Yet when it comes to drugs, even the bureaucracy-loving French have more choices.

The FDA's concentrated power breeds public suspicion—suspicion that won't go away simply by yammering about tobacco. Long before the agency began making noises about regulating cigarettes, even before David Kessler arrived on the scene, the FDA had become a bête noire to many very different sorts of people. Devotees of herbal medicines and natural foods believe it conspires with the big pharmaceutical companies to hurt unpatentable "alternative" remedies and stifle information about vitamins. (I suspect the rage for alternative medicine is itself driven at least in part by the fact that such treatments are available without a prescription; the desire for self-reliance precedes the anti-technology ideology.) Science lovers dislike the way it squeezes out small-scale research on ideas like combinatorial chemistry—ideas that could address such problems as drug-resistant strains of tuberculosis. Medical device makers hate its delays, as do the pharmaceutical companies. And libertarians just don't think the government should tell people what to do with their bodies.

When it comes to medicine, that's in fact a widely shared sentiment—at least among the sick. Yet the same politicians and journalists who supposedly extol "a woman's right to choose" behave as though regulatory caution obviously justifies forcing people like Jennifer Cox to endure years of unchosen, and unnecessary, physical torture. "Pro-choice," they imagine, doesn't apply to medicines available in Europe—except, of course, RU-486. "Freedom of expression" has nothing to do with publishing information on "off-label" uses of drugs. Those liberal ideals are much too grand for mere "headache pills," vitamins, "me-too" antibiotics, or treatments for diseases nobody famous has heard of.

Such inconsistencies cannot stand forever, especially against an increasingly informed—and rapidly aging—public. This summer's nearly hysterical campaign to defend the FDA suggests they may already be weakening. We can, however, expect counterattacks, attacks unlikely to stay contained within the fringe territory of tobacco. The agency and its allies are already marshalling their forces to overthrow the law protecting dietary supplements. Having largely co-opted the once-radical AIDS community, they are positioned to begin restricting access to foreign drug supplies. Time and technology are on the side of choice. But it's going to be one hell of a fight. ®

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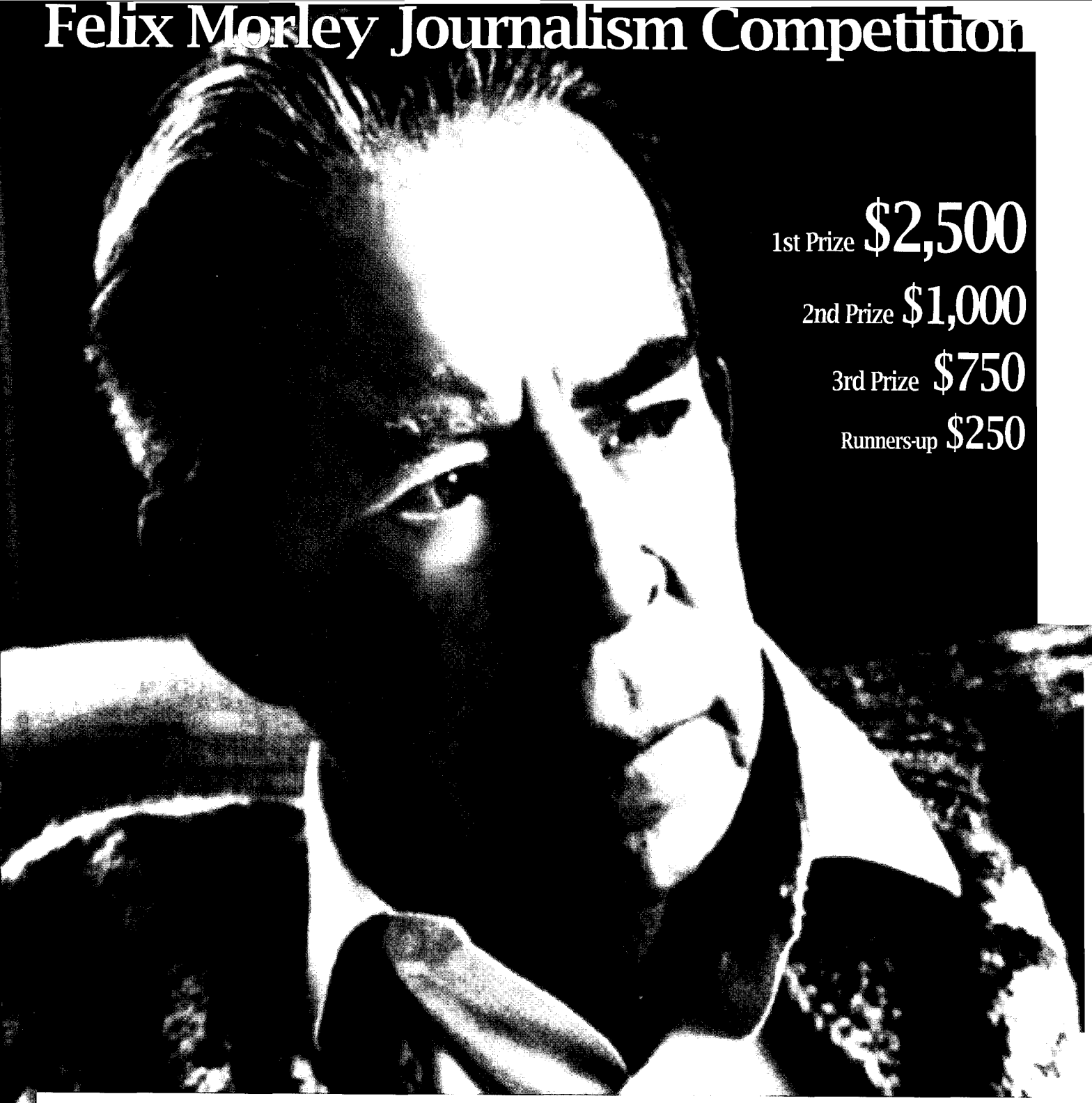

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Weed Whackers

By Jacob Sullum

Bill Clinton bashes fags, while Bob Dole takes pot shots.

THE PRESIDENTIAL RACE HAS TURNED into a war of weeds, a contest to determine which represents a greater threat to the youth of America: tobacco or marijuana. Bill Clinton, a former pot smoker, wants to crack down on cigarettes. Bob Dole, a former cigarette smoker, wants to crack down on pot. Both propose to save the children by restricting the freedom of adults, and each accuses the other of inadequate concern.

Lest I invite the same charge, let me say, at the risk of sounding like a politician (or a tobacco company), that children should not smoke—anything. Although the long-term effects of marijuana use have been exaggerated, the immediate effects tend to get in the way of learning and socialization. Like alcohol, marijuana impairs attention, short-term memory, and coordination. Children are less equipped to deal with such effects than adults. They are more likely to use intoxicants inappropriately and to act irresponsibly while under the influence. Reality tells us that the vast majority of teenagers who try pot (or alcohol) nevertheless manage to become decent, productive citizens. But the regular use of such intoxicants, especially as a way to relieve anxiety or deal with social pressure, presents special dangers to the cognitive and emotional development of adolescents.

With cigarettes, by contrast, the psychoactive effects are mild, but the long-term physical effects are substantial. Given the difficulty of quitting and the serious health hazards involved, it is reasonable to put cigarette smoking in the same category as enlisting in the Army, getting married, and other risky decisions that are reserved for adults. The difference in maturity between a 16-year-old and an 18-year-old should not be exaggerated, but a person's attitude toward the prospect of lung cancer at 65 is apt to change as he grows up.

So the recent increases in both kinds of smoking among teenagers are cause for concern. They are not cause for panic. According to the 1995 National Household Survey on Drug Abuse, the results of which were released in August, the share of 12-to-17-year-olds who said they had used marijuana in the previous month rose from 3.4 percent in 1992 to 8.2 percent last year. The increase followed a 13-year decline from a peak of 14.2 percent in 1979. The share of teenagers reporting past-month use of cigarettes rose from 18.4 percent in 1992 to 20.2 percent in 1995. That figure had also been falling; it was 29.4 percent in 1985, the most recent year for which cigarette data were listed. (The pre-1994 figures have been adjusted because of changes in methodology, so they are different from the numbers originally reported for those years.)

It's easy enough to make the trends seem more alarming. "*Marijuana use among young people has more than doubled* (an increase of 105%) since Clinton took office," announced a Dole campaign press release. That certainly sounds worse than an increase of 4.2 percentage points. This trick is even more effective when you start with a smaller base. Hence "*use of LSD and other hallucinogens has nearly tripled*" (to 1.7 percent), while "*monthly use of cocaine, the scourge of the 1980s, went up among young people by an appalling 166%*" (to a whopping 0.8 percent). The Clintonites have to settle for a not-so-startling 10 percent increase in teenage smoking over three years. But they can fall back on the number of annual (or daily) smoking-related deaths, which is always impressive, whether it's going up or not. Unfortunately for Dole, marijuana has never actually killed anybody, so far as we know.

IN THE FACE OF SUCH FEAR-MONGERING, looking at the absolute rates of use helps keep things in perspective. It's also worth noting that past-month use, which the government's statisticians like to call "current use," is not the same as daily use, or weekly use, or even monthly use (since someone who has smoked tobacco or marijuana in the month prior to the survey does not necessarily do so every month). The consequences of an occasional cigarette or joint are likely to be much less serious than a pack- or bong-a-day habit.

Troubling though teenage drug use may be, the solutions proposed by Dole and Clinton are far more worrisome. "This is nothing short of a national tragedy," said Dole. "Starting next January, I'm going to make the drug war priority No. 1 once again." Since almost half a million Americans were arrested on marijuana charges in 1994, 42 percent more than the average annual total during the Bush administration, it's not clear what making the drug war "priority No. 1" would mean, but we can guess: more arrests, more invasions of homes and seizures of

CHIP BOK

property, more violence, more bystander deaths, more corruption, more needless suffering because the government does not approve of the chemicals that millions of Americans choose to ingest.

CLINTON'S PLAN TO REGULATE THE MARketing and distribution of cigarettes through the Food and Drug Administration is part of a campaign to treat tobacco more like a controlled substance. A couple of years ago, FDA Commissioner David Kessler decided that the nicotine in cigarettes was a "drug" as defined by the Food, Drug, and Cosmetic Act: a substance (other than food) intended to affect the structure or function of the human body. Last year the FDA announced plans to regulate cigarettes as "nicotine delivery devices," putting them in a category that is generally limited to medical products. This is an anomalous status for a legal recreational drug, like treating beer as an "ethanol delivery device" or Coca-Cola as a "caffeine delivery device."

Among other things, the FDA's regulations, which were finalized in August, ban broad categories of cigarette advertising and promotion: no more brand-name sponsorship of sporting events, no more logo-imprinted merchandise, no more illustrated signs in stores, no more color or pictures in billboards or in ads carried by publications that Junior might see. As Clinton explained, "Cigarette smoking is the most significant public health hazard facing our people," and "Joe Camel promises that smoking will make you cool." It is hard to say which is more disturbing: that the Leader of the Free World considers Marlboro caps and Joe Camel T-shirts —articles of clothing!—such a menace to society that they cannot be tolerated, or that he wants to ban them precisely because of the message he thinks they communicate.

Censorship is just the first step. If underage smoking does not fall by at least 50 percent within seven years, the FDA has promised to "take additional measures." Since the agency's claim of jurisdiction seems to give it carte blanche to deal with cigarettes in whatever way it deems appropriate, "additional measures" could be anything from product specifications (restrictions on nicotine content, for example) to outright prohibition. Clinton and Kessler have insisted that banning tobacco is out of the question, since the consequences of creating a huge black market would be unacceptable.

Yet the American public has been perfectly willing to accept such consequences for the last eight decades, since the onset of the drug war that Bob Dole wants to intensify. As smoking declines and becomes increasingly concentrated in lower socioeconomic groups, tobacco could one day become another target in the war on drugs. Then people like Bob Dole and people like Bill Clinton may have nothing to argue about. R

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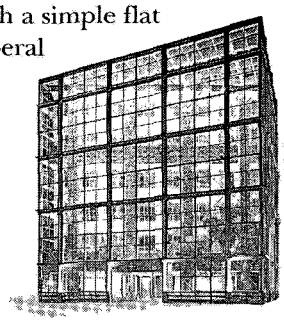

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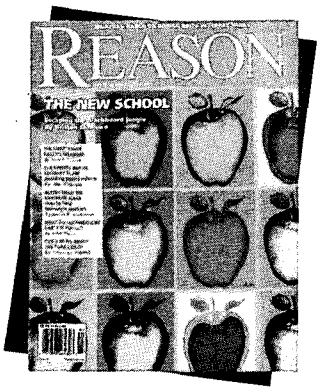

Uncompromised Reactions

I found Nick Gillespie's article on Harry Browne and the Libertarian Party most disheartening ("Uncompromising Positions," July). I was especially offended by the author's association of Browne's campaign with the likes of Pat Paulsen and Billy Joe Clegg. I find dismissing Browne's candidacy odd since both REASON and the Libertarian Party seem to be in the same business: spreading our mutual message of limited constitutional government, individual liberty, laissez-faire economics, and peace.

The difference between REASON and the Browne campaign/Libertarian Party seems to be one of accomplishment. Harry Browne and the other candidates of the Libertarian Party have already reached over 10 million people via radio, television, and print and will reach tens of millions more by the election. I believe REASON has a circulation of around 60,000. Perhaps if REASON and Nick Gillespie were half as successful as Harry Browne and the Libertarian Party in communicating our message to the masses, we would already be at our common goal.

Howard Scott Lichtman
Campaign Manager
Jo Jorgensen, Libertarian for Vice President
Newark, DE

I believe externalities in third-party votes make it mandatory that direct comparison of presidential votes from one election to the next (a centerpiece of "Uncompromising Position") be replaced by a more meaningful analysis. For instance, we might examine Libertarian presidential votes as a percentage of only those candidates excluded from that great statist infomercial, the national TV debates. With this we find very positive results. In 1972, John Hospers got 0.25 percent of the TV-excluded vote. This rose to 11 percent with Roger MacBride in 1976 and 13 percent with Ed Clark in 1980. By 1984, David Bergland garnered 37 percent of the excluded vote and Ron Paul achieved 48 percent in 1988! Andre Marrou's share fell only slightly to 44 percent four years ago. By measuring the L.P.'s share of those who won't vote for the lesser of evils on TV, we find an achievement about which the L.P. can be proud.

Bernard Baltic
Lakewood, OH

I have been a reader of REASON for over 10 years. I have also purchased several gift subscriptions for my friends. I enjoy REASON and will continue to be a booster for your magazine.

In this spirit, I would like to remind you that the prime market for your publication is the libertarian movement. Of course, you would like to appeal far beyond this group, but you should never forget that REASON would not exist as it is without the support of libertarians. I would urge, for your sake, that you do not treat your core readers like fools in order to curry favor with those who will *never* become enthusiastic subscribers.

Politicians (like Bob Dole) are patronizing to their core supporters while slavishly courting the respect of the center. For politicians in American elections, this makes sense—there is nowhere else for conservative activists to go. But you are not in this position. There are many excellent alternatives to REASON magazine. The positioning that is so vital for successful politicians only makes political magazines unimportant and replaceable.

I hope you are not so swamped with e-mail from your subscribers and potential subscribers about your Harry Browne article that you dismiss this comment. But all the other mail you are receiving only underscores my point. These are the people who *care* what you say.

Philip Blumel
pblumel@aol.com

I subscribed to REASON many years ago *not* to hear how badly the L.P. and its candidates are doing but rather to hear how "free markets and free minds" are winning the day, how libertarian principles can have a positive impact on society.

However, your article on the L.P. and Harry Browne, when looked at alongside your article on Steve Forbes, sounds suspiciously like an endorsement of the Republican Party and its vision of government: something that must grow, albeit more slowly than the Democratic ideal of 5 percent. Not good enough, folks.

Patrick L. McHargue
L.P. Candidate
U.S. 4th House District
Sonora, CA
mchargue@mlode.com

I am disgusted after having read your article about the Libertarian Party. I've always thought of REASON as "small l" libertarians, so I did not expect flattery—but you could have been, at the very least, accurate. Take the opening sentence: "Over the Fourth of July weekend, the Libertarian Party will invade enemy territory—Washington, D.C. —and hold its national convention." News flash: The L.P. headquarters is housed within the Watergate Complex, *which is in Washington, D.C.* How can one invade "enemy territory" while on one's own turf?

Also, you wrote "Browne has received next to no media attention...." Granted, the print and TV media have not been overly attentive; but Browne is currently a talk-radio phenomenon. He has reached at least 15 million people on over 150 radio shows as of mid-May. Many of these shows have been 60 minutes or more. Compare that with 15-second sound bites for Dole and Clinton. Browne must be hours ahead in radio air time.

But the omission possibly of greatest note came when you talked of his having

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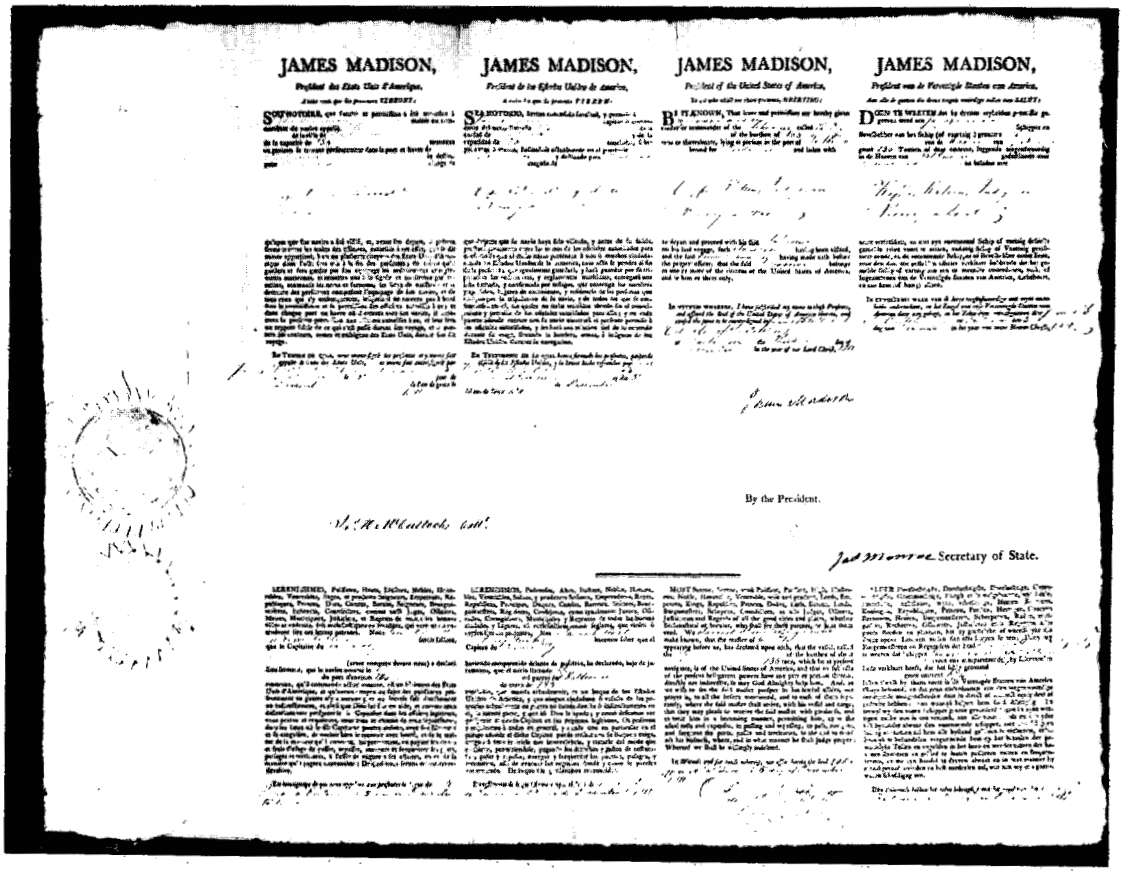

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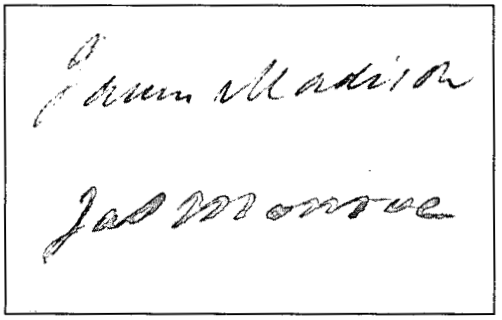

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-Patrick A. Heller

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raised only $750,000—"hugely short" of his goal. You made no mention of the fact that, after waiting to be sure that Republicans would be stuck with Bob Dole, Browne has just begun fundraising efforts targeted at subscribers of his friends in the investment newsletter industry. In fact, Browne has been *endorsed* by five prominent investment newsletter writers, who have about 500,000 subscribers. Why didn't you mention these endorsements?

Just for fun let's say he can come up with an average donation of $100 from each of these half million investors. He would then have the $50 million he needs. Or do you think that America's rank and file investors are putting their hopes on Dole? Wake up!

You did not need to write a hit piece. You could have simply printed the Harry Browne interview. No one could have complained about that. Time will tell if Browne can raise the $50 million. In the meantime, I am not supporting you any longer. It is foolish to support those who would bring our movement down. Please send me a refund for the rest of my subscription so that I may send that money to the Browne for President campaign.

Dan Litwin
San Diego, CA

Nick Gillespie's hit piece about the sup-posed contradiction between libertarianism and party politics looks like a deliberate attempt to discredit both the Libertarian Party and Harry Browne. In an effort to make his points, Gillespie suggests that Browne's agenda would be like the French Revolution. REASON should be ashamed for printing such nonsense.

The "fatal conceit" Hayek disparaged and to which you compared Browne's program was that there is "some grand, wise, and judicious plan" by which men could "create the world anew," which is what socialism is all about. Libertarianism stresses that there is no such plan, that the best plan is no plan but freedom, that people left to their own devices make the best decisions about their own welfare, and that the creative forces unleashed by a free market will inevitably produce wealth for everyone in society. The Libertarian Party and Harry Browne believe that. Doesn't REASON?

I also think you were unnecessarily negative about Harry Browne's chances in November. Browne is popular in one very large constituency outside the Libertarian Party, the Internet. He actually leads in several totally independent Internet straw polls, and is a close second in several more. And this is without the deep pockets of a Forbes or Perot, or the incessant free media exposure Clinton and Dole enjoy.

Browne is popular on the Internet because netizens already appreciate liberty. They've watched the Internet double every year for the past seven years without any government aid or direction. They've experienced freedom and they like it.

How big is this constituency? At the end of March there were an estimated 12 million computers hooked up to the Web, and there should be 20 million by November at the current rate of growth. Figuring 1.5 voter per computer (to balance two- and three-voter families against non-U.S. and underage segments), and 50 percent of them for Browne, and 50 percent of those actually voting, that's more than 7 million votes right there.

As for Browne's "ludicrous scenario," what's ludicrous about getting back to basic constitutional law, especially the 10th Amendment? What's ludicrous about vetoing bills that increase big government and then daring Congress to overturn the veto while millions of its constituents watch? What's ludicrous about carrying out the will of the people who voted him into office? Unusual, yes, but ludicrous? Yes, Harry Browne is a long shot right now, but there are still almost five months to November and anything could happen, especially after the debates.

Dick Crawford
Napa, CA

Regarding Mr. Gillespie's piece on Harry Browne and the Libertarian Party, his contention that the U.S. government will "piecemeal" itself to a libertarian society is surprisingly naive and based on flawed logic. By his contention that since government beefed up on a piecemeal basis it can just as naturally beef down, he must think big government is like the man who gradually ate his way to obesity and acknowledges his excesses and the fact that he must lose weight. A more correct analogy to big government is to compare it to the AIDS virus: a parasite that gains strength as it saps more and more of the vitality of its host.

The mainstream political parties will never voluntarily give up any material portions of government power no matter how fervently Mr. Gillespie "hopes" the process "works in reverse." They continue to push collectivist economic initiatives like family leave, and increasing the minimum wage, and seize on opportunities to consolidate more power through agendas like the anti-terrorism bill.

I find it disheartening that a magazine purporting to support "free minds and free markets" would cast the only political movement dedicated to those same principles in such a negative light. I regret that you've been seduced by the mainstream political parties and thereby have abrogated your own ideals.

Henry R. Newmark
wright1@ionet.net

I just received an e-mail press release from David Nolan and Harry Browne berating REASON for having the temerity to point out the obvious, i.e., that once again the L.P. hasn't a snowball's chance in hell of winning major political office in 1996. I was particularly offended to have Browne, who explained 25 years ago why playing election politics was a waste of time and effort, present himself as offended when his own reasoning is used against him.

I have subscribed to REASON for about 15 years. Have I always agreed with your positions? Of course not! Could you be a better magazine? Sure! However, I learned a long time ago not to criticize someone's work unless I was willing to step into their shoes. I find REASON enjoyable and informative; if Harry Browne and Co. feel it isn't serving the interests

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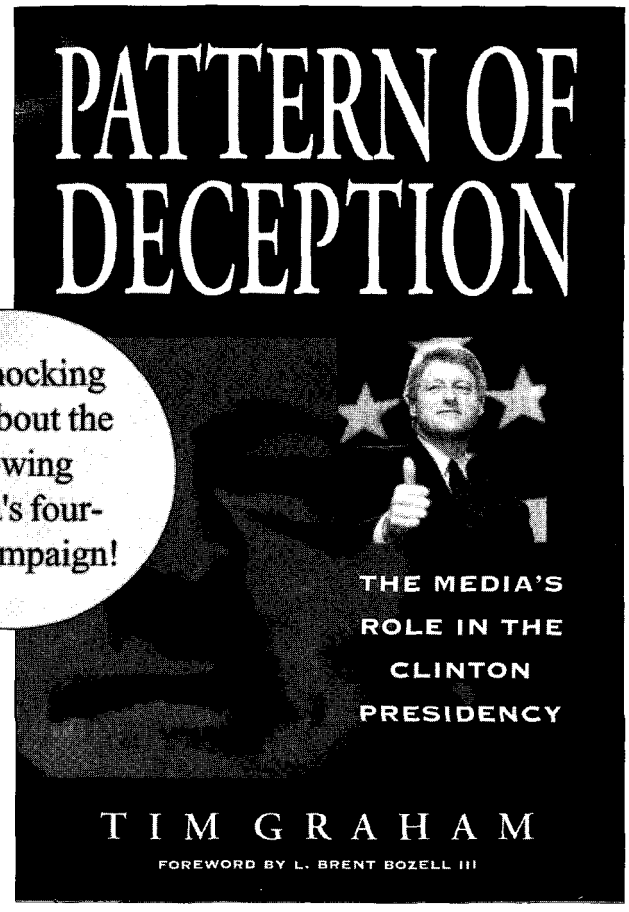
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of libertarians, why don't they start another magazine and run REASON out of business? To me, that's the free market solution, not wasting my time sending me polemics about how REASON has done them wrong.

Ideological movements in American history do not usually triumph by overt victories. The Socialist Party never won an election, but we have nearly everything they wished for in place today. We libertarians (note the small l) will win eventually because we have reality on our side, but this doesn't mean that a Libertarian candidate will occupy the White House anymore than that the fall of Communism required U.S. troops to capture Moscow. You *can* lose all the battles and still win the war. I plan to vote for the L.P. candidate, but that doesn't mean I expect him or her to actually win office.

As for REASON, please keep fighting the good fight. There's room for everyone on this battlefield.

Bill Howell
Belmont, MA

Nick Gillespie replies: Judging from the volume of mail it generated—well over 100 responses, including personal letters to me—"Uncompromising Position" struck a nerve with readers. The response was mixed, but there is no question that the story "disheartened," "appalled," and "disgusted" a fair number of readers (and a fair number of people who admitted they had not and would not read the piece out of principle!). I, in turn, have been somewhat disheartened by responses that misinterpret, misconstrue, or simply miss the gist of my story.

Essentially, I made the following observations: 1) Harry Browne is not going to become president of the United States. 2) His insistence that he can win the election hurts his ability to communicate libertarian ideas because voters are more likely to write him off as out of touch with reality. 3) The Libertarian Party has not developed into a broad-based popular party, and there are reasons for that. 4) Because libertarians tend to think in terms of systematic consistency, and politics (as opposed to philosophy) is characterized by compromise and half-measures, there is inherent tension in libertarian proposals for political reform. 5) Libertarians will have to convince people on an issue-by-issue basis that their ideas are valid and worth adopting.

Some of these points are arguable (to wit, Bernard Baltic's interesting electoral analysis), and some are perhaps disagreeable. But, contrary to Dan Litwin, the story is factually accurate. Commenting on my story's opening image of the L.P. "invading" Washington, D.C., for the party's convention, Litwin writes, "The L.P. headquarters is...in Washington, D.C. How can one invade 'enemy territory' while on one's own turf?" I am relieved to know that the use of metaphorical language is the extent of my empirical blunders. Mr. Litwin might have also noted that Harry Browne has never been known to struggle between Scylla and Charybdis (indeed, the candidate may well have never even been to the Mediterranean).

One of the distressing characteristics shared by many of the most negative letters is an unwillingness or inability to read carefully or with any appreciation for context. For instance, Howard Scott Lichtman charges that I lump Browne in with such political sideshow geeks as Pat Paulsen and the Rev. Billy Joe Clegg. Even a casual perusal of my story would reveal that I cited *The New York Times Magazine*'s classification of serious alternative candidates with foolish ones to illustrate how difficult it is for the former to get respectful media attention. (In their widely circulated responses to the article, Harry Browne and L.P. founder David Nolan make numerous similar basic reading mistakes. Incidentally, Messrs. Browne and Nolan both declined requests to write letters to the editor.)

Similarly, I find it unconvincing to assert that REASON—because it is a libertarian magazine—is the wrong forum in which to discuss the fortunes, strategies, and failings of the Libertarian Party. In his evenhanded letter, Philip Blumel reminds REASON not to treat its "core readers like fools in order to curry favor with those who will *never* become enthusiastic subscribers." Patrick L. McHargue writes that he reads REASON specifically "*not* to hear how badly the L.P. and its candidates... are doing, but rather to hear how 'free minds and free markets' are winning the day."

One of the sub-themes of the story was that the "libertarian movement...is engaged with the mainstream—at long last!" But more important, it seems to me that REASON—as by far the largest libertarian publication in print—would be treating its readers precisely like fools if it failed to engage in critical commentary regarding the libertarian movement, which is in no way limited to the Libertarian Party or its 14,000 members. My article was hardly intended to "curry favor" with vaguely defined non-subscribers; it was an attempt to assess the Browne campaign, a topic of scant interest to non-libertarians. That anything other than bland, empty praise of the L.P. and its candidates should be seen as unconscionable dissent —or the result of being "seduced by the mainstream political parties"—speaks to the party's immaturity. I find it ironic that libertarians of all people would insist on such intellectual orthodoxy.

Henry R. Newmark's letter underscores the conundrum of libertarian *politics* (as opposed to philosophy) that I comment on in my story. He notes (as I did), that "mainstream political parties will never voluntarily give up...power," but then carves out an exception for the L.P. What I suggested was that libertarian ideas will be adopted and implemented on a piecemeal basis. It is ridiculous and historically insupportable to think that overnight, in one fell swoop, any group can completely change the political direction of the country through electoral means.

This is not because, as Patrick L. McHargue insinuates, REASON endorses the Republican Party's "vision of government...[as]...something that must grow, albeit more slowly than the Democratic ideal of 5 percent"—I challenge Mr. McHargue to turn up anything in REASON (including Virginia Postrel's editorial on

Steve Forbes) that comes close to such a suggestion. Rather, drawing on the observations of F.A. Hayek regarding the rise of central planning in England and the United States, I put forth the notion that less-than-comprehensive changes in social institutions can eventually, if slowly, lead to a more-libertarian society.

Mr. Crawford, by the way, misreads my reference to Hayek's "fatal conceit." I didn't say that Browne's agenda was the same as the French Revolution in its particulars. During his interview with REASON, Browne himself admitted that he could think of no point in history when a government voluntarily (i.e., following an election) rolled itself back in the way he's proposing. The logical inference from this is that we need something akin to the French Revolution, something that essentially wipes the slate clean and starts over (in fact, Browne often talks about getting back to the Edenic paradise he supposes late 18th-century America to have been). My point was to highlight another tension inherent in libertarian political programs: On the one hand, we call for a huge scaling back, if not an outright dissolution, of government functions; on the other, we understand that governments and social institutions are not easily changed, redesigned, or dismantled. Hayek, in *The Road to Serfdom* and elsewhere, stressed the need for top-down change in political institutions as the means to change people's attitudes about government and state authority. It is worth pausing over the irony that a libertarian order characterized by decentralized political and economic power may well require a strong-arm leader to come into being. As for Browne's "ludicrous scenario," it does strike me as absurd that Browne could openly acknowledge that there are systemic reasons for the status quo and then assert that he alone can turn Leviathan into a playful dolphin.

Still, far from writing a "hit piece" (as Dan Litwin and Dick Crawford allege), I hardly glossed over Browne's positives, even going so far as to call him "quite possibly the strongest candidate the L.P. has yet to consider" and announcing my (con-

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tinuing) intention to vote for him in the fall. By the same token, it seems ridiculous to me to entertain the fantasy that Browne can or will win. This is not necessarily a bad thing: As Bill Howell notes, the Socialist Party accomplished a great deal with virtually no luck at the polls.

Howard Scott Lichtman pegs Browne's radio audience at over 10 million (Dan Litwin puts it over 15 million); these numbers are perhaps less impressive than they seem at first blush and should not be taken as a sign of support for Browne's agenda. Consider that in May (the latest month for which I have the figures), the total circulation of press mentions of REASON or the Reason Foundation topped 18.2 million; in the same month, REASON people made over a dozen radio and television appearances, reaching a potential audience of who knows how many millions. While such a presence is all to the good—and Browne is, as I noted, a "seasoned, articulate pundit" and "persuasive polemicist"—it is hardly sufficient to win substantial numbers of votes. Dick Crawford's invocation of Browne's showing in Internet polls is similarly misguided. None of the Internet polls represents random samples; most of them allow respondents to vote as often as they want. Dan Litwin's fundraising calculations add up on paper—although they make wildly unrealistic assumptions about reader response—and I sincerely hope that Harry Browne reaches his goal. All I reported was the fact—as verified by his campaign—that at press time, Browne had raised about 1.5 percent of that sum.

Typing Tangles

Stan Liebowitz and Stephen Margolis should be applauded for their discussion of QWERTY ("Typing Errors," June). They are right that QWERTY does not strengthen an argument for government intervention. However, QWERTY raises philosophical issues that can't be resolved simply by retelling the history of this (or any) particular innovation.

QWERTY is best understood as an argument against a strand of economic thinking which comes very close to making the Panglossian argument that markets lead us to "the best of all possible worlds." To say that keyboard technology is as efficient as it could possibly be at this point in history is tautological and meaningless. Economics by itself simply doesn't have much to offer to the conversations that take place at this level. It might be that conversations at that level are themselves meaningless, but saying this requires a philosophical reach outside of economics.

This is relevant on a political level, because classical liberals who rely too heavily on economics for their thinking often end up making Panglossian arguments. If they wish to be persuasive, classical liberals must have something to say about human beings as human beings and not simply as rational utility-maximizers.

Daniel Forbes
New York, NY

I found Liebowitz and Margolis's article intriguing. It does indeed seem unfortunate that so many scholars and writers are locked in to the clearly inferior example of the QWERTY keyboard and seem so utterly dependent upon the erroneous path laid before them by, for one, Dvorak.

In light of that little irony, perhaps Liebowitz and Margolis should refine their argument to say that, though the market can at times lead to the adoption of very goofy, bad, or inefficient networks, such poor decisions can be overcome by smart entrepreneurs, though the rejection of a bad network and the adoption of a good network is not a foregone conclusion. They might add that government is less likely than free entrepreneurs to adopt the best networks.

I was disappointed to not find a discussion by Liebowitz and Margolis about the free-rider problem associated with network externalities. If a different keyboard design really were more efficient than the one I'm now using, it would be much more expensive for the first firms to switch over to the new design than later firms; firms would be tempted to free-ride on the efforts of the first firms to switch. Of course, libertarians view problems of externalities as problems to be solved by entrepreneurs, not the state.

Ari Armstrong
Arvada, CO

Liebowitz and Margolis's article is as flawed as the QWERTY keyboard. I would suggest that they get out from under their papers, books, and research studies to try a Dvorak keyboard to get at the truth. In the studies they cite, where two groups competed against each other on the two machines, they failed to observe that the participants previously all had been QWERTY typists. This leads to an obvious disadvantage for the Dvorak groups, who had to overcome their QWERTY habits while attempting to adapt to the new keyboard layout. The only acceptable study would be one in which all the participants had never typed before. The result would be quite clear: The Dvorak is far superior.

James Argiro
Deerfield Beach, FL

Since the gist of their article is attacking the erroneous repetition of untested myths, it's ironic that Stan Liebowitz and Stephen E. Margolis perpetuate the fallacy that the Macintosh's graphical interface was taken from Xerox. The idea of a graphical interface dates back, at least, to Jef Raskin's Ph.D. thesis, "A Hardware-Independent Computer Drawing System Using List-Structured Modeling: The Quick-Draw Graphics System." Curiously, Raskin was the project leader for the Macintosh, the Mac's graphics engine is called QuickDraw, and the Mac project started long before Steve Jobs's mythological visit to Xerox PARC.

Quoting from a recent message to the "MacWay" mailing list by Bruce Horn (an engineer who joined the Macintosh project in 1981 after eight years at Xerox): "I've been watching the debate for more than a decade now about where the Macintosh User Interface came from. Most people assume that it was taken directly from Xerox, after Steve Jobs went to visit. This 'fact' is reported over and over, by people who don't know any better (and

also by people who should!). This just isn't true—there are some similarities between the Apple interface and the various interfaces on Xerox systems, but the differences are substantial."

Richard B. "Brad" Hutchings
brad@hutchings-software.com

While I agree that Dvorak's slow acceptance may not be a good example of why markets can't be trusted, Liebowitz and Margolis first slander *Typewriting Behavior*, the 1936 book by Dvorak et al. presenting the keyboard's design, as "a late-night television infomercial rather than scientific work." The 500-plus–page book stuffed with charts and design details is, in the preface, clearly identified as part of "a series of commercial education [books] to result from" their studies, for which they gratefully acknowledge funding from the Carnegie Foundation for the Advancement of Teaching (not the "Carnegie Commission"). Liebowitz and Margolis claim that they "discovered" this support, as if it were somehow hidden from public view. Hidden in the preface of the book?

They claim the 1944 Navy study was difficult to find, and the author's names were concealed. My publisher has had copies of the report available for 15 years. It clearly shows it was "Prepared by Training Section, Departmental Services Division of Shore Establishments and Civilian Personnel, Washington, D.C."—not an atypical attribution for a government study.

Liebowitz and Margolis's coup de grace, though, is the General Services Administration's 1956 study by Earl Strong. They conclude that because there has been "no attempt to...discredit the GSA study," academics and journalists are not living up to their high standards when writing about the Dvorak. Liebowitz and Margolis didn't do their homework: Dvorak supporters would simply say, "been there, done that." Example: My 1986 book, which Liebowitz and Margolis could probably have found in their university libraries, spent several pages pointing out gross bias behind the GSA study. Harvard's Richard Land said the GSA test was "poorly designed," that "the conclusions are overstated," and that the data actually showed "great promise" for further improvement by the Dvorak typists which Strong ignored. When other researchers wanted to see the raw data so they could draw their own conclusions, they found that Strong had destroyed it all! This is an example of the high standards Liebowitz and Margolis aspire to? Further, Strong was clearly biased: In 1949, he wrote, "I am out to exploit [the present keyboard] to its very utmost in opposition to the change to new keyboards," and there is evidence of a personal animosity between Strong and Dvorak.

I agree with Liebowitz and Margolis on another thing: There is a need for good, unbiased studies on Dvorak. The best raw data I have access to at present is from Keytime, a Seattle-based company which uses keyboard instructional technologies they developed in house. In the past nine years, they have trained several hundred typists on Dvorak and several thousand on QWERTY, using the exact same equipment and teaching methodologies. They have "repeatedly found" that after 15 hours of training and practice time, existing QWERTY hunt-and-peck typists can touch type at an average 20 words per minute. After 15 hours of training and practice on Dvorak, similarly able (QWERTY) typists consistently average 25 to 30 words per minute touch-typing on Dvorak. Further, Keytime reports that the Dvorak typists continue to improve at a higher rate.

Liebowitz and Margolis conclude that "the story of Dvorak's superiority is a myth or, perhaps more properly, a hoax." Concluding that there is some sort of conspiracy afoot among the obviously grassroots 60-year support for the Dvorak is paranoia, not academic theory.

Randy Cassingham
Boulder, CO

Messrs. Liebowitz and Margolis reply: Regarding Mr. Forbes's point, it has never been our position that the QWERTY keyboard was the best of all possible keyboards. Further, economics does not gen-

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erally make such claims. We would argue, however, that economics does demonstrate that competition leads to the least-cost methods of achieving a particular goal. A Toyota Corolla might not be the best car that can be imagined, or even produced, but for the money, it does its job about as well as anything that we can currently produce. Otherwise some smart entrepreneur would put those inefficient auto companies out of business. It is not Panglossian to say that competition leads to efficiency, since efficiency is not sufficient to achieve the best of all possible worlds. We are perfectly willing to acknowledge this limitation of economics.

To Mr. Argiro we would note that the mathematical simulations of typing, which show no advantage for Dvorak, do not have the drawback that he cites. Also, Dvorak did claim that QWERTY typists would also benefit from his technique. His own Navy study compared retrained QWERTY typists, appropriately mimicking the decision that faced actual typists (who already knew QWERTY). Nevertheless, we agree that it would be interesting to have a controlled experiment starting with new typists. Unlike Mr. Argiro, however, we cannot claim with certainty what the results will show, although we believe that he will be proved wrong.

Regarding Mr. Armstrong, the myth of Dvorak superiority is promulgated precisely because it is a wonderful example of an alleged market failure. Also, academic theories (and theorists) do not compete in a free and open for-profit marketplace. If they did, a lot of them might well never come to exist. More seriously, it is an important part of our argument that entrepreneurs are the key players guiding markets toward efficient paths, and we regret it if our article did not make this point forcefully enough. While we acknowledge free-riding as a possibility for some network externalities, we do not regard it as a central issue for the typewriter story. Large corporations with typing pools could fairly easily have internalized sufficient gains from switching to a better keyboard to make the switch worthwhile, if the advantages of Dvorak were anything like those that Dvorak claimed.

Mr. Hutchings introduces an old debate that usually asks whether Apple is guilty of some misappropriation. We certainly make no accusation of that sort. But it is abundantly clear that Xerox had done much work on the idea of using a mouse with menuing systems well before Apple (even if others not at Xerox were working on the same ideas, and even if they later worked at Apple) and that Apple was influenced by what Xerox did. This doesn't mean that Apple did not improve on the ideas, or that Apple didn't invest much of its own energy trying to optimize its interface. But the major ideas that separated graphical from text interfaces were born at Xerox, not Apple.

We were disappointed, as Mr. Cassingham must be, that his 1986 book cannot be found in our university libraries. Nor is it to be found in the on-line catalogs at Harvard, the University of Michigan, Duke, or the University of Texas at Austin, all of which are thought to have substantial collections. (Readers can easily verify this for themselves.) We therefore cannot comment on Mr. Cassingham's writings.

We did contact his publisher (Freelance Communications, Pasadena) and discovered that they offer only three titles, all of them by Mr. Cassingham. Thus it seems somewhat disingenuous for Mr. Cassingham to refer to his publisher in the third person. This type of exaggeration by Dvorak advocates helps fuel our doubts regarding their claims. Mr. Cassingham's possession of the Navy study is no evidence of its general availability.

In any case, Mr. Cassingham's claims are off the mark. Even if it were easy to find a copy of the Navy study, our claim that Dvorak's role is hidden from view is hardly changed by noting that the title page says the study was prepared by the Training Services Division of the Navy. By way of comparison, Strong does not hide his role in the GSA study. Our academic writing, by the way, cites the Navy study in full, crediting the Training Services Division.

The book to which Dvorak was willing to have his name attached does read like an infomercial to us, as we think it would to any unbiased reader. By itself, this hardly proves that it is wrong, since infomercials might well be selling worthwhile products. Boosterism, even for worthwhile products, however, cannot be a substitute for scientific objectivity. Charts and tables by themselves are not scientific unless they report results that are produced in accordance with generally accepted scientific methods. This means, among other things, proper controls, which was not the case in the Dvorak book (Dvorak hardly claimed otherwise). We are certain that the Psychic Friends Network could offer charts and tables as testimonials to its value. The "results" mentioned by Messrs. Cassingham and Argiro ignore this important point. For example, the Keytime data reported by Mr. Cassingham, although admittedly unknown to us, smack of typist self-selection and thus lack of controls, since Mr. Cassingham reports far more QWERTY typists than Dvorak typists.

Finally, we are aware that some Dvorak boosters claim that Strong was biased. We cannot prove otherwise. But serious ergonomic studies, and other studies comparing QWERTY and Dvorak (even those put forward by Yamada, a Dvorak advocate) tend to match the results of Strong, and not the Navy studies. It is the preponderance of evidence, together with the reasonableness of the reported method, that causes us to believe Strong's results. We have seen no convincing evidence that Strong's results were biased, but we are willing to entertain any contrary evidence that is other than just hearsay.

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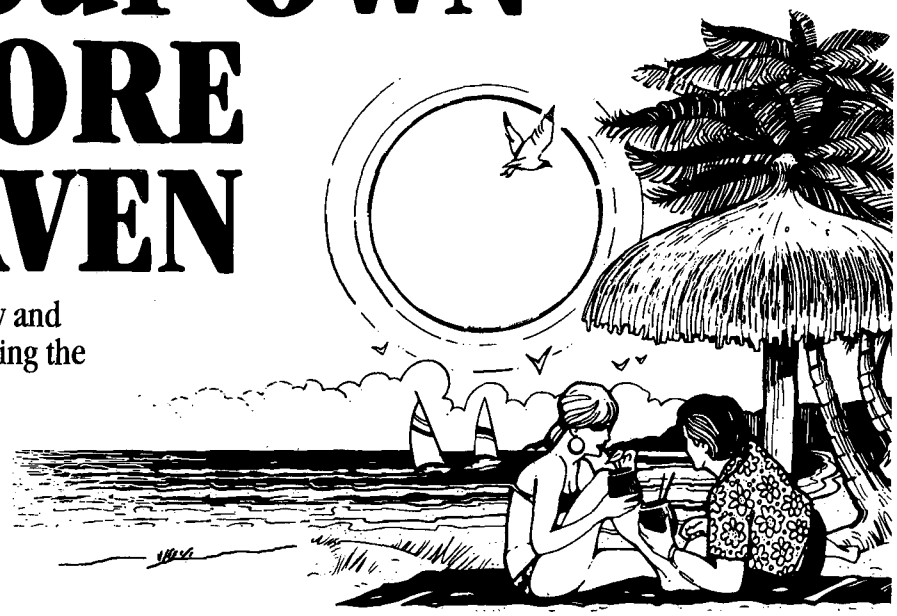

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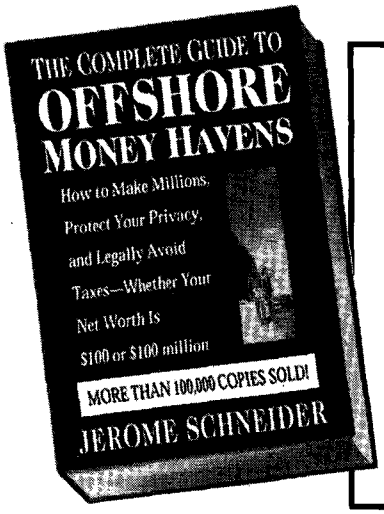
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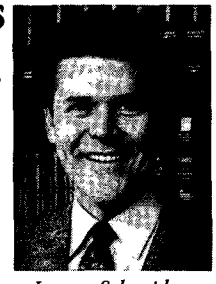

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Jerome Schneider is a foremost authority on international finance and investing. For more than 20 years, he has helped businessmen, investors and entrepreneurs make and save fortunes using the world's offshore financial centers.

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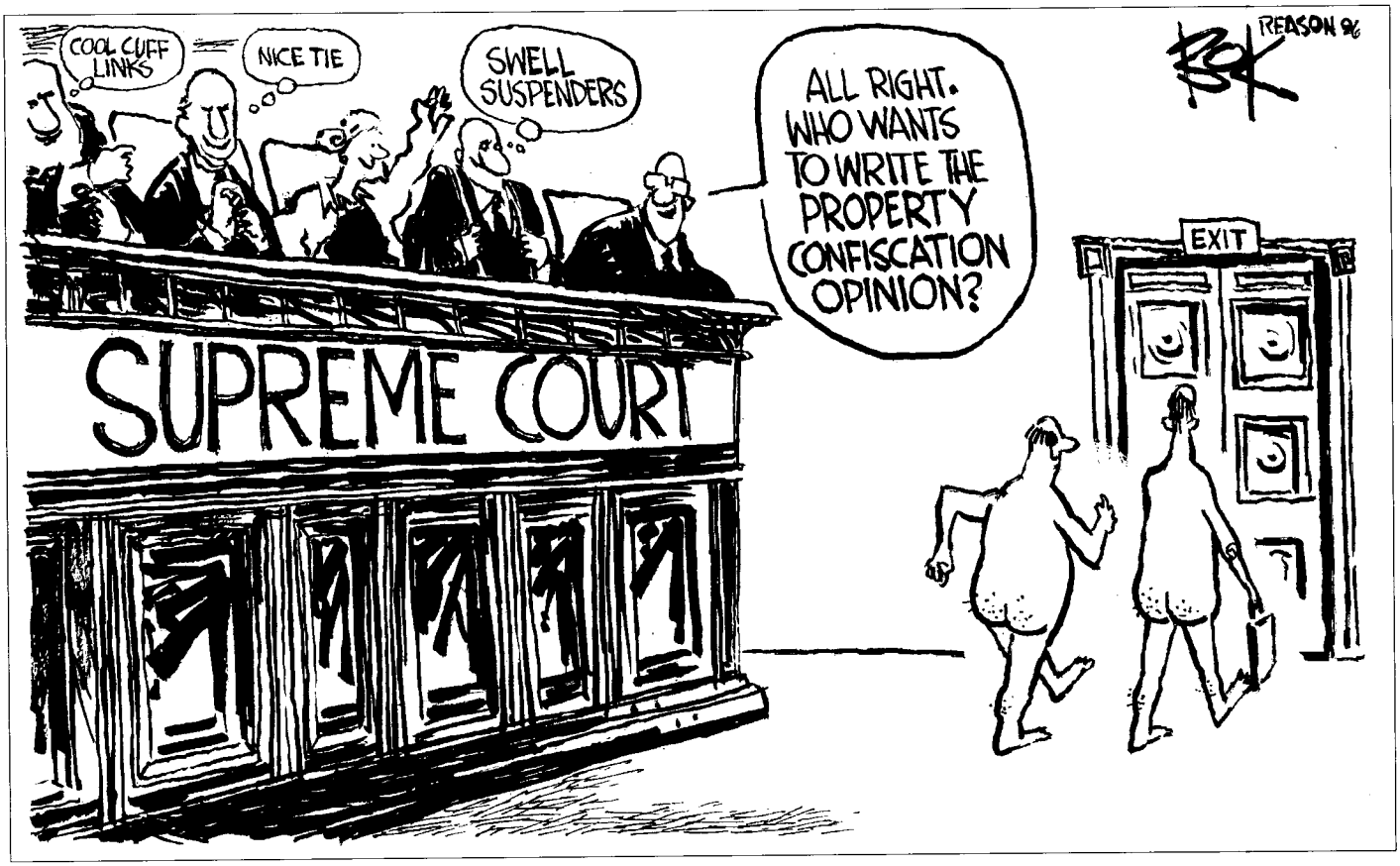


CHIP BOK

HENRY PAYNE

The city of Clearfield, Utah, isn't exactly known as the gang capital of the world. And the city fathers are determined to keep it that way. For this year's Fourth of July celebrations, they banned the wearing of certain gang-related clothing in public places: baseball caps, baggy trousers, headbands, and the colors red and blue.

In Norway, one 15-year-old's summer started off a bit hotter than he'd anticipated. The boy wanted to celebrate the last day of school by burning his textbooks. The fire spread. As a result, his school burned down.

In Hawaii, the governor has vetoed a bill that would allow people to volunteer for jury duty.

A French court has barred an advertising campaign by Philip Morris Companies. The campaign cited scientific studies that show secondhand smoke isn't much of a danger. The ads claimed that eating cookies is more dangerous to one's health. Apparently, cookie makers didn't get the point. They claimed that this was comparative advertising, which is banned by French law. They got the court to stop the ads.

In China, the government now will require actors to get a license before they perform. It's an attempt to shield Chinese citizens from bad ideas, not bad acting.

The Chinese have also barred businesses from using names from foreign languages. It says that such names undermine national culture. Hey, just who do they think they are? The French?

Speaking of dictatorial Asian nations, the government of South Korea has threatened legal action against any of its citizens who access a Web site created by a Canadian college student. Seems the Web site contains official North Korean documents and propaganda, which are a no-no in the South. David Burgess recently visited North Korea and wanted to share what he had learned on his Web page. Burgess said he was "awestruck by the authoritarian and bizarre use of political power to suppress the thoughts and actions of people." He meant North Korea, not South Korea.

Last year, an Osaka, Japan, court ordered a businessman to pay damages to a female worker he pestered for sex. So how has life under the threat of sexual harassment lawsuits changed Japan? For what it's worth, brothels report a rise in "sekuhara fantasies," where a customer molests a prostitute dressed as a secretary.

Want to know what life is like in one of those states that have laws requiring the publication of the names and addresses of sex offenders? Ask John Young or Amy McGee. They are among at least two dozen Illinois citizens whose homes were falsely listed as the residences of child molesters. The list, complete with mistakes, was reprinted in local newspapers. Now they are worried that thugs acting as vigilantes might attack their homes and harm their kids.

In Miami, Rafael Santiago and a friend allegedly broke into an apartment and tried to burglarize the place. Among the objects they tried to steal was a shotgun. Unfortunately for Santiago, the shotgun was loaded. While handling it, he shot his thumb off. The two fled, leaving everything behind, including the thumb.

Responding to news that Seagram's has bought television airtime to advertise whiskey, Rep. Joe Kennedy (D-Mass.) has proposed a ban on all radio and TV ads for hard liquor. The Kennedys are noted for many things. A sense of irony isn't one of them.

Members of the United Church of Christ are singing a different song these days. Well, actually, several different songs. The church recently revised its official hymnal, and it updated some of the language for the '90s. For instance, the gender of the baby Jesus is no longer mentioned in "Silent Night." Military language has been removed from some songs. God is referred to as "her" sometimes. Words that might offend minorities have been taken out. "Just As I Am" no longer contains a reference to the "poor, wretched blind," for instance. And the phrase "right hand of God" in one song has been changed to the "mighty" hand of God, lest lefties get offended.

—Charles Oliver

Confronting a CRISIS

Clipping Clinton's encryption policies

By Elizabeth Koch

IN OCTOBER 1993, THEN–DEPUTY SECRETARY of Defense William Perry said government policy makers "have to recognize that we don't have any ability to control computers which are available on the mass retail markets." Unfortunately, other senior Clinton administration officials disagree. They have used Cold War–era regulations to equate exporting data encryption—the use of mathematical formulas to scramble messages over computers—with selling munitions.

Now a panel appointed by the National Research Council has surprisingly concluded that using arms control laws to regulate encryption "is not adequate to support the information security requirements of an information society." In "Cryptography's Role In Securing the Information Society" (CRISIS), a 500-page report requested by Congress, a panel of 20 academics, attorneys, and computer entrepreneurs called for export controls to be relaxed and for government encryption policies to get the same public scrutiny as other economic regulations.

Law enforcement officials say encryption must be tightly regulated to prevent terrorists, drug dealers, and other lawbreakers from concealing their criminal activities. They want any changes in policy developed in secret. The Clinton administration has responded by proposing new programs that would require encryption users to deposit their decoding "keys" with the FBI or third parties designated by the government.

But individuals and businesses wish to accelerate the use of the Internet and other electronic networks to exchange information and conduct commerce. And export controls could cost domestic encryption manufacturers as much as $60 billion in lost sales by the end of the decade. "[I]n an era in which cryptography plays an important role in protecting information in all walks of life," say the authors of the report, "public consensus and government secrecy related to information security in the private sector are largely incompatible."

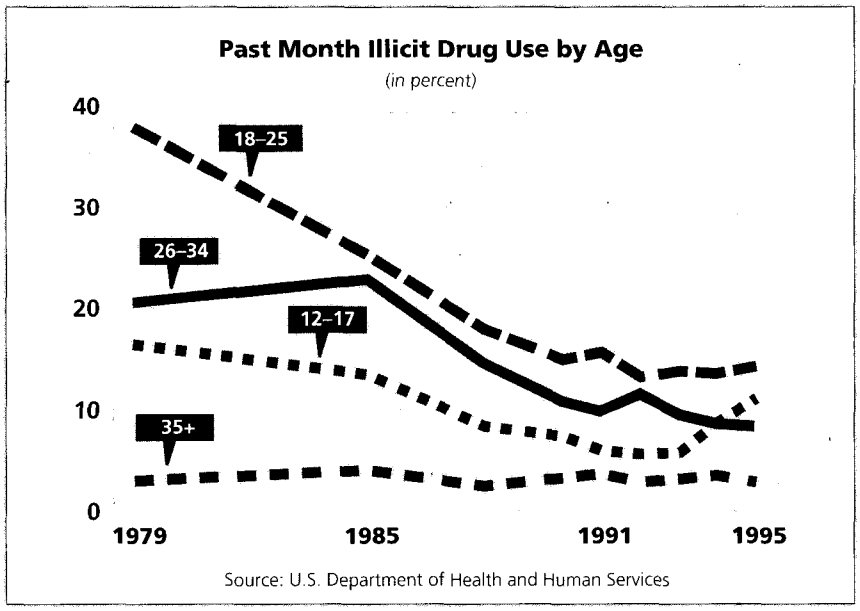
Indeed, the ultra-respectable authors, who include former Attorney General Benjamin Civiletti, former deputy director of the National Security Agency Ann Caracristi, and Council on Foreign Relations President Leslie Gelb, reject the law-enforcement demand that encryption policies must be treated as classified information and decided behind closed doors. Instead they "believe that the broad outlines of national cryptography policy can be analyzed on an unclassified basis." While not calling for an end to export controls, the authors would like to have these restrictions "progressively relaxed but not eliminated." R

Drugged Up?

Survey shows little change in drug use.

By Nick Gillespie

When the government released its latest figures on illegal drug consumption, politicians and the media seized upon slight increases in use among 12-to-17-year-olds as evidence that the war on drugs needs to go nuclear. A less spectacular finding, however, got less coverage: Between 1994 and 1995, past-month drug use by all Americans remained flat—and less than half its 1979 peak of 14.1 percent. The data also support the hypothesis that drug use naturally tapers off with age. Last year, only about 8 percent of people between 26 and 34 used drugs on a monthly basis, a figure that shrinks to 2.8 percent for those 35 or older.



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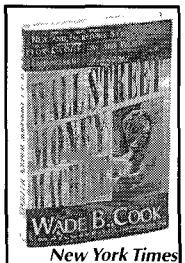

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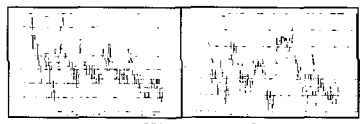

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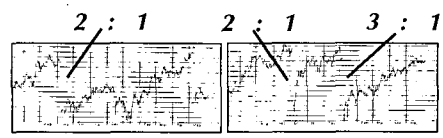

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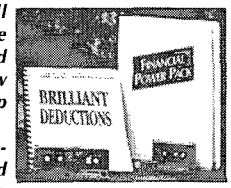

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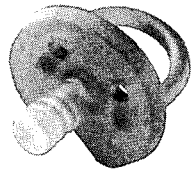
Pregnant Laws

Exposing fetuses to drugs is child neglect in South Carolina.

By Brian Doherty



A PREGNANT WOMAN IN SOUTH CAROLINA is now liable for a longer jail term for exposing her viable fetus to the residue of illegal drugs than she would be for aborting it. That's the result of a July decision by the state's Supreme Court.

The court declared that a viable fetus was legally a person under the state's child neglect statutes, and that taking drugs while pregnant constituted neglect. The decision reverses a lower court ruling that said Cornelia Whitner had been improperly charged for that crime. The decision also goes against the reasoning of numerous high courts in other states, including Ohio, Nevada, Kentucky, and Florida.

"Lots of states have tried these sorts of prosecutions," says Andrea Miller of the Center for Reproductive Law and Policy, which represented Whitner. "They don't always use the same statute—some use drug-delivery statutes, even homicide statutes, all to prosecute woman for their behavior while pregnant. But every other appellate court has rejected such prosecutions for being without legal basis, unconstitutional, or both."

The South Carolina decision does not appear to conflict with the state's abortion laws, since it applies only to viable fetuses, whom it's already illegal to abort in the state. The maximum punishment for that crime is only two years, however, less than the possible 10 under the child-neglect statute.

The range of behavior that could run a pregnant mother afoul of the statute thus applied is quite broad. "There are not enough jail cells in South Carolina to hold the pregnant women who have a drug problem, drink a glass of wine with dinner, smoke cigarettes, fail to take prenatal vitamins, or decide to go to work despite their doctor's advice that they should stay in bed—all of whom could be guilty of the crime of child neglect," said Lynn Paltrow, one of Whitner's attorneys, in a press release.

The decision makes doctors or drug treatment professionals possibly liable for not reporting to the cops anything they know about prenatal drug use. That could make it unlikely that women who might fall afoul of the law will visit doctors or seek drug treatment.

Although her baby was born healthy, Whitner was sentenced to eight years in prison. ®

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One Hand for Federalism

A federal judge strikes down Superfund.

By Ed Carson

IT WAS SUPPOSED TO BE A SIMPLE CONsent decree between the federal government and chemical manufacturer Olin Corp. regarding cleanup of a Superfund site, but the presiding judge ended up declaring much of the Comprehensive Environmental Response, Compensation and Liability Act (a.k.a. Superfund) unconstitutional. In a May 20 decision, District Court Judge W. Brevard Hand ruled that the Environmental Protection Agency cannot apply the Superfund law retroactively. Hand based his decision on the Supreme Court's 1994 *Landgraf* decision, in which the Court ruled that Congress must expressly state that a law is retroactive.

Jerry Taylor, director of natural resources at Cato Institute, estimates that "80 percent of all federal environmental law" would be found unconstitutional by this decision's standards and federal authority would be significantly scaled back.

Potentially far more significant was the judge's ruling that the Superfund law exceeds federal authority under the Commerce Clause of the Constitution. Because the Olin case involved an Alabama company with Alabama waste at an Alabama site, Hand ruled that the federal government had no jurisdiction. Since the New Deal, the Commerce Clause has been interpreted by the courts as sanction for virtually any federal legislation, no matter how tenuous the link with interstate commerce. But in last year's *U.S. v. Lopez*, the Supreme Court struck down a federal gun-free school zone law on the grounds that the regulated activity did not "substantially" affect interstate commerce.

Federal officials and environmentalists say Hand's ruling is "an anomaly" that is unlikely to be upheld on appeal. "*Lopez* was an adjustment on the margins rather than a fundamental recasting of federal authority," says Karen Florini, senior attorney for the Environmental Defense Fund.

Cato's Taylor says Hand's ruling was based on "rock-solid reasoning." He believes Hand's reasoning on retroactivity may be upheld, but Hand's extension of *Lopez* is a different matter.

"If the Court meant what it said in *Lopez*, it will be upheld," Taylor says. But many Court observers believe *Lopez* was a trial balloon to see if the new, supposedly anti-government and anti-Washington Republican-led Congress would support a Court shift toward limiting federal power. And the GOP Congress has not been giving the Court positive signals. In the wake of media hype over church burnings in June, Congress unanimously passed the Church Arson Prevention Act of 1996—and claimed that the federal government can step in because church burnings affect interstate commerce. "The Court finally, tentatively, draws a line on the Commerce Clause. Then Congress says, 'Yes, we do have the power to do anything we want.' What's the Court going to make of it?" asks Taylor. ®

Measure by Measure

Tracking ballot initiatives.

By Ed Carson

MOST OF THE MEDIA COVERAGE on the fall election has been on the presidential and congressional races. But voters also will be choosing among numerous state ballot initiatives. Here's an overview of the more important measures.

• *CCRI.* The California Civil Rights Initiative would eliminate all race and gender preferences in government. Americans for Tax Reform's Kolt Z. Jones, who tracks initiatives, says, "CCRI is the most important initiative on the ballot in 15 or 20 years." If CCRI passes, other states will likely follow with their own versions as initiatives or legislation.

• *Taxes.* Voters in Arizona, Florida, Nevada, and South Dakota will consider initiatives requiring either two-thirds voter approval for all taxes and fees or a two-thirds legislative supermajority.

• *Term Limits.* Term limits supporters have qualified at least 10 initiatives for the ballot in November, but only one in North Dakota would actually limit terms in office. The rest would require states to note candidates' term-limits votes on the ballot.

• *Minimum Wage.* California, Missouri, Montana, and Oregon voters will decide whether to raise the minimum wage in their states by varying amounts.

• *Campaign Finance.* At least four initiatives in three states would impose new campaign finance or lobbying restrictions. Alaska's measure would lower contribution levels and require more disclosure.

• *School Choice.* Washington state voters have two school choice initiatives on the ballot, one creating a voucher system, the other, charter schools.

• *Other.* Maine will vote on an anti–clear cutting measure. And, for the first time in several election cycles, no anti-gay initiatives qualified for the ballot. R

Balance Sheet

By Rick Henderson

Assets

Zip Drive. Commerce Secretary Mickey Kantor tries to make cyberspace the next free-trade zone. The White House will allow duty-free sales of software and services over the Internet. And Kantor will press trading partners to reciprocate. One hurdle: Will the administration relax export controls on encryption so that Internet transactions can be more secure?

Ringing Endorsement. Long-distance telephone competition reaches Mexico. An alliance between MCI and Mexico's largest banking group offers business customers an alternative to Telmex's former long-distance monopoly. By January 1, as many as seven other companies will offer service to homes and businesses. Telmex responds by offering its first consumer discounts.

Hop Heads. Congress may roll back the 21-year-old drinking age next year. Rep. Scott Klug (R-Wisc.) lines up Republicans and New Democrats to back repeal as an issue of federalism and common sense: If you're old enough to serve in the military, supporters say, why can't you legally down a cold one?

Taking Charge. Grassroots tyrants, beware: Illinois courts tell regulatory agencies and legislative bodies to stop "taking" private property without compensating owners. When Amoco tried to convert a gas station to a convenience store, the Village of Schaumburg demanded that the oil company surrender 20 percent of its property so it could widen the road. The Illinois Court of Appeals rules for Amoco, saying "A city council can take property just as well as a planning commission can."

Liabilities

Idle Chatter. The welfare reform bill Bill Clinton signed on August 22 requires anyone on public assistance to find work within two years. But the minimum wage increase he signed two days earlier will make it less likely anyone will have positions to offer. Cutting the minimum wage (or the payroll tax) would have helped businesses create more entry-level jobs. But either would have infuriated union bosses, on whom the Democrats depend for campaign dollars and volunteers.

Document Fraud. In Poland, social security taxes are 48 percent of payroll and frequently evaded. To catch cheaters, the government will start to pull the passports of employers who don't pay on time, focusing first on small businesses. We hope Congress doesn't catch on. Imagine what might happen if U.S. authorities used the same tactics to go after people who fall behind with child support, employers suspected of hiring illegal immigrants, stores that might sell tobacco to minors....

Shark Bait. If you play sports in California and get hurt, don't call a physical therapist; get a lawyer. Hundreds of well-heeled athletes, including Bo Jackson and Joe Montana, have received tax-free benefits from the state's workers' comp program. Former San Diego Chargers lineman Ron Mix, now a personal injury attorney, tells the San Diego *Union-Tribune*, "I can't imagine [athletes] care what the public thinks because they have an absolute right to it."

Gas Attack. Even if Republicans hold Congress, a second Clinton term could cause regulatory mischief. Administration enviros have no intention of abandoning international commitments to reduce greenhouse gases, possibly leading to new energy taxes or fuel rationing. And the Environmental Protection Agency—without citing any health threats—may reduce allowable standards for ground-level ozone, triggering mandates for ever-cleaner automobiles, gasoline, home heating oil, etc.

Putting People On

The budget deficit is the central problem of the federal government and one from which many of the country's other, most difficult problems flow....Bill Clinton and congressional Democrats were handed an unusual chance this year to deal constructively with the effect of Medicare on the deficit, and they blew it. The chance came in the form of the congressional Republican plan to balance the budget over seven years. Some other aspects of that plan deserved to be resisted, but the Republican proposal to get at the deficit partly by confronting the cost of Medicare deserved support. The Democrats, led by the president, chose instead to present themselves as Medicare's great protectors. They have shamelessly used the issue, demagogued on it, because they think that's where the votes are....If the Democrats play the Medicare card and win, they will have set back for years, for the worst political reasons, the very cause of rational government in behalf of which they profess to be behaving.

"The Real Default"
Editorial, *The Washington Post*, November 16, 1995

Last fall, TIME *has learned, [presidential adviser Dick] Morris urged Clinton to agree to a proposed increase in premiums paid by Medicare recipients. It was a responsible position—middle-class entitlements are devouring the budget—but Clinton didn't take it. Instead he cast the G.O.P. as granny-bashing extremists and saw his popularity soar as the government closed and Gingrich got the blame.*

***Time*, September 2, 1996**

The Pander Bear returns

By Thomas W. Hazlett

It worked. My God, it worked. The high road, the low road—is it any shock that President Clinton chose the *poll* road? It is some kind of testimonial both to the American political system, and to the public discussion of government policy in these United States, that the presidential campaign in 1996 is almost solely devoted to the brilliant political strategy of Clinton—even overruling his political Svengali—in bringing back his party from the edge of extinction. It is the boldness of the president, gaining relevancy by wielding the veto pen to protect our nation's meek and needy, contrasted with the unctuousness of Speaker Gingrich, having the temerity to shut the government down in a brash display of arrogant audacity, that has produced Campaign '96's conventional wisdom.

There is no question that the Republicans miscalculated the political dynamics of the famous budget showdown during the winter of 1995–96. Knowing that the mighty Ronald Reagan had been intimidated into signing bloated budgets patched together by Democratic porkmeisters, they figured there was no chance that *this* squishy meatball of a president, Bill Clinton, would not tremble and collapse when subjected to the same sort of blackmail. But the GOP had fallen into the president's trap; Clinton is only squishy when it comes to ideas and principles. There is not a wimpy cell in Bill Clinton's body when pressed to defend his beloved presidency. And in those formative days in late 1995, the polls indicated that registered voters wanted the president to veto the Republican budget—by over 3 to 2.

The Clinton strategy, credited to the genius of Dick Morris, was actually lifted from Political Economy 101. The simple model is called the "median

SCOTT STANTIS

voter theorem," the notion that political competition is all about snagging that voter in the middle. A little more casually, it's known as "Nixon goes to China": Steal the other team's thunder—all while trashing them as traitors who are selling national security secrets to our enemies.

But don't try this at home—some finesse is involved. The trick is to move the moderate center into your camp while keeping your core constituency from getting antsy (bolting to the other side, bailing for a third party, or just sitting home, depressed). In 1972, Nixon lucked out when the Democrats nominated a leftish George McGovern who really did believe in the wacky, far-out things that Dick Nixon may have advanced but was never foolish enough to believe in (such as guaranteed incomes and price controls).

The Medicare scare was the perfect wedge for Clinton's purposes. Medicare spending is exploding (from about $53 billion in 1983 to $177 billion in 1996), but it's mad money for the elderly middle class (the poor have much shorter lifespans, don't forget), retired and just cruising for some trouble to get into—like jumping the first whippersnapper who so much as looks at the budget line item called Medicare. Clinton's poll numbers exploded as fast as Medicare spending when he stood up to the Republican "cuts." A Clinton-Dole dead heat among men turned into a 30-point runaway among the elderly.

Of course, Clinton did not act alone. There was the press. Taking a cue from the White House, it faithfully reported that Republican plans to increase spending by 7 percent per patient per year would "cut," "slash," and "decimate" Medicare. When confronted by CNN's Wolf Blitzer at a summer press conference as to why he insisted on mislabeling increases as reductions, the president cited the press as his source of misinformation: "We got that from you....The press was saying that." The perfect circle.

And Clinton had an active assist from Gingrich, a man who believes so firmly in the two-party system that when the Republicans were on the precipice of an electoral realignment of historic proportions, he rushed in to revive flagging Democratic hopes with his made-for-tabloids "Cry Baby" routine vis-à-vis his seating assignment on Air Force One.

But what Gingrich really did to help Clinton was to present the unifying threat which Democrats have lacked for generations. The 1994 elections—an embarrassing repudiation of Clintonism—allowed the president to reassert his position as the Democrats' last, best hope against the surging tide of conservative government. The desperation, the shock, the moment of terror: Democrats out of power! Where were the federal jobs, the perks, the levers, the Washington way of life? Gone with the Winds of '94? Clinton soon saw that his party faithful, many of whom privately loathed his "leadership" for plunging the party to the disaster of

'94, could not—*would* not—bear the thought of Republican hegemony.

The acclaimed Dick Morris helped Bill Clinton craft this strategy as early as April 1995. It was standard political strategic calculation, cold-blooded, scientific. Bob Woodward recounts in *The Choice* that Morris had the White House divide up all the Republican agenda items—including those in the now-vilified "Contract on America"—and place them in two computerized files: "olive branch" and "fuck you." The items in the first file would be taken as Clinton's own; they included such popular Contract items as the law mandating that U.S. regulations apply to Congress and the measure ending unfunded mandates levied on the states. The second file contained those items, like Medicare reform, which the administration would denounce in the most vicious terms. Of course, the first file dwarfed the second. Clinton was able to—on paper—agree to a seven-year balanced budget and most of what the GOP was talking about, if he only retained a few weapons of democratic terror.

The most curious aspect of the 1996 campaign is that the Republicans are embarrassed to run on their record: "We told you what we were going to do in 1994, and we did it."

Again, Medicare (with minor backup from spending on education and the environment, liberal mom-and-apple-pie issues) gave him the cover to co-opt Congress on most everything else. In the end, it was a remarkable performance: Newt was demonized as "dangerous and extreme" (in the first Bill Clinton fundraising letter, written by the president himself, proclaimed in mid-1995)—even as the administration could claim to be doing most everything he was trying to do anyway. You don't want him, you don't need him. And from there it's just been politics. That is to say, a phony issue here, a photo op there—panderama '96.

Let's face it: Pandering is the Democrats' home turf. Take the minimum wage. The press has now written that episode as an embarrassing defeat for the Republicans, who were foolishly outflanked in this race to help the least among us. The irony is rich. When 40,000 middle class executives at AT&T are cut loose (albeit, with generous severance packages), all hell breaks loose. From Patrick Buchanan to the editors of *The New York Times*, we are bombarded with horror stories about worker anxiety and the "downsizing of America."

But where has the moral high road led us on the minimum wage? If Clinton is correct, and 10 million workers are affected by the roughly 20 percent mandated increase in wages, over 400,000 low-wage laborers will be tossed out of work. (This is implied by a study of the actual New Jersey minimum wage hike in 1993—the very episode which the Clinton Labor Department uses to "prove" that the minimum wage does not reduce employment.) These, the most vulnerable members of our labor force, are now thrown to the dogs by the same president who dubbed the minimum wage a "job killer" in 1992. And this is the brainstorm which embodies Democrats' largess! (Will these 400,000 ex-workers even say "thank you"?)

And so the competition of politics has swept the radical Republicans of 1994 into the sheepish moderates of 1996. The Republican Convention was not so much the p.r. sham that the media were distressed about—after all, Colin Powell and Susan Molinari really are (or were) Republicans holding high public office. The convention was an apology. The bona fides of the 104th Congress were neatly tucked away, out of sight of the millions of guests looking in. But what is there to be ashamed of?

Indeed, the most curious aspect of the 1996 campaign is that the Republicans are embarrassed to run on their record: "We told you what we were going to do in 1994, and we did it." All 10 Contract items were voted on by the House of Representatives in the first 100 days—the precise pledge the House GOP candidates had made. The only one of the 10 defeated in the House was term limits, which garnered nearly 90 percent of Republicans in Congress. Many of the Contract measures were so popular that they received a majority of Democratic votes. To be sure, Congress's anti–same-sex marriage act, the flag burning amendment, and that bill to discharge AIDS victims from the military were ugly episodes. That the GOP Congress has fled from its real accomplishments to embrace these yahoo idiocies in an election year speaks volumes about the Republicans' readiness to govern.

This GOP cowardice is a tribute to the success of the "harshness," "extremism," and "meanness" pinned on the Newtoids during their showdown with the president on Medicare. That's why, last November, the *Post* could feel a "shameless exploitation" coming on. What a rush! And now the third rail of American politics—middle-class entitlements—reemerges intact and once again untouchable.

In 1992, Bill Clinton ran on a campaign pledge of a middle-class tax cut, which he said was necessary because median family income had been declining in America, and a national health care reform plan to bring medical insurance to the 37 million Americans lacking it. Neither was delivered. (Median incomes are still falling, and over 40 million Americans are now uninsured. Not a lot of idle chatter about this in Chicago.) Indeed, Clinton lied about one and botched the other. The tax-cut pledge —of 10 percent, with an $800 per-child tax credit, very close to what candidate Dole peddles now—vanished nearly the instant that the electoral college had been decided. Clinton claimed he dropped the idea because the Bush administration's deficit was surprisingly large, and told the public that the tax cut was a casualty of his predecessor's fudging the figures.

This was so outrageous a tale that the president's own deputy director (later director) of the Office of Management and Budget called it a cheap shot. As Bob Woodward tells it in *The Agenda*, Alice Rivlin confronted Clinton spinster Paul Begala on this very

issue. When Begala offered, "We have to explain why the deficit got worse and how it got worse," Rivlin shot back: "That's nonsense. Bill Clinton knew where this deficit was going." Woodward adds that Rivlin said "that they had to face the fact that the campaign fundamentally misrepresented the situation."

Begala did not take the expert analysis of Dr. Rivlin lightly: "Begala was steaming." But the clash between economic fact and political spin in the administration is—well, did you see any of the NBA playoffs last year? It's fun to watch, but there's not a lot of suspense about the final outcome. The press office has taken over full control from the Council of Economic Advisers, and the incredible boasts—unchallenged by Dole or the press—have become nothing short of phenomenal. That Clinton lowered the deficit "four years in a row...for the first time since the Civil War" is now the principal economic achievement touted by the administration.

In fact, the Clinton administration has not actually seen four fiscal years; we don't know—won't know for one year, yet—what the four-year Clinton deficit amounts to. The first of the four years that the administration cites in its deficit-reduction grand slam is actually fiscal 1993—which began October 1, 1992—Bush's last year. In fiscal 1993, federal red ink declined from $290 billion (fiscal 1992) to $255 billion and the deficit was headed south. This was primarily due to four factors which have nothing to do with Bill Clinton: The business cycle ticked up (in 1992 the economy was already growing at 2.3 percent annually, just about the rate under Clinton so far); the collapse of the Soviet threat allowed military spending to decline; the savings and loan bailout ended; and the modest spending caps put in place in the infamous Bush budget compromise of 1990 (wherein he broke his "no new taxes" pledge—in exchange for these spending caps) kicked in. Of course, Clinton credits the Bush $492 billion deficit-reduction deal not at all; his 1993 $496 billion package actually undid the spending caps in place in order to rejigger them—directing credit to the new administration.

What is genuinely dastardly about the deficit-reduction boast, however, is that Clinton actually did help to bring government ledgers into balance—by being so legislatively incompetent that the administration's spending schemes were shot down one after the other. In *Putting People First*, Clinton's 1992 campaign manifesto, he advocated about $90 billion in "investments"—also known as government make-work—over four years. This was a key promise for the Clinton-Gore campaign, as it was the "I have a plan!" backdrop for their commitment to get the "worst economy in 50 years" moving.

The first installment, even pared back to a $16 billion "stimulus package" (not to be confused with Dick Morris's less extravagant, if better targeted, $200 per hour private-sector stimulus package), was filibustered by Dole in the Senate; the "investment" program was nevermore. The fate of the Clinton health plan, a similar budget-busting spending spree, is well known. By producing such colossal political failures on the spending side, Clinton did help further the goal of budget balance.

Indeed, the ultimate political catastrophe of the Clinton administration—its failure to hold Congress in the 1994 elections—finally brought real constraints on the spending side. Remember, please, that the administration was perfectly willing to budget $200 billion annual deficits in 1996 and far beyond—until thwarted by the "extremist" Republican Congress. The result was a decline in the 1996 deficit to only about $120 billion—over $70 billion less than what the administration forecast in February 1995. But let's face it: If Clinton can't steal the credit from this "dangerous" and "radical" set of criminals, whom can he steal from?

The excitement in Chicago was that Clinton had indeed committed the perfect crime. Mario Cuomo, relegated to not-ready-for-primetime status along with the rest of the old-line liberal Politburo (including Jesse Jackson), gave the one speech which actually laid it all out (he even dared to recount Clinton's run at a national health care system!). Rather than simply demonizing his Republican opponents, the ex-governor sought to identify the source of Clinton's contribution, a contribution that needed some explaining in light of the president's signing of the welfare bill and other ostensible dissents from Democratic orthodoxy.

It has been noted that Cuomo's rationale for re-electing the president—i.e., only Clinton can fix a welfare bill which is so terrible that no reasonable person would ever have signed it, unless he had to for raw political advantage—is deliciously cynical. But Cuomo's real insight was in describing what Bill Clinton had done for the Democratic Party. "President Clinton," he said, was "erasing the stigmas that had been branded upon our reputation over the years. Who will say today that Democrats are in love with big government, and big spending, after Bill Clinton has cut the federal government dramatically and brought the deficit down by 60 percent?"

And this new, unburdened Democratic Party can go on to achieve wonders. "The president was lifting the albatross from around the neck of this great Democratic Party so that now with all those stigmas virtually erased, we are free once again to be Democrats, progressive, constructive Democrats. And we are ready now to continue the work of restoring the American dream that was invented by Democrats six decades ago." So the greatness these "new" Democrats want to achieve, flushed with the success of Clinton, is...the New Deal. Rejoice, my beloved Party. We are "free once again to be Democrats." Real Democrats—not budget-cutters, not welfare-enders, not pseudo-Republicans—but bona fide "progressive, constructive Democrats." Glory be to Clinton.

As Joe Klein, using his real name, wrote in *Newsweek*, "The era of big government may be over, but the party of big government remains—and remains stubbornly devoted to a thick, dull, uninspired system that seems to exist for the benefit of its employees, not the public." Klein was specifically talking about public schools and the teachers' unions that love them so jealously that they are quite willing to deny millions of poor children any reasonable means of escape. It was to Bob Dole's credit that he seized on the issue of bureaucratic control of the public schools as a campaign issue of substance and symbolism. It actually does constitute an act of political bravery, for it has already unleashed a firestorm from government operatives posing as teachers, using America's school kids as hostages.

Is Cuomo's vision Bill Clinton's? Is the co-optation of Republican policies just a trick to set up the Democrats for yet another new era of big government? Clinton on the fly could spin it: "I said that the 'era of big government is over.' That was the *old* era. This is the *new* era. And it's not *big* government. It's progressive government. It's constructive government. It's reinvented government. It's an investment in our future. It's government that cares about people." C'mon, you can even hear the hillbilly twang.

Looking forward, it is impossible to predict what a second term President Clinton would do. Take the president's forthright statement, made on *60 Minutes* in August: "I pledge that I have no intention of raising taxes in my second term." How perfectly splendid to twist the future tense *pledge* into the *present* tense of intent. And still, to make it sound like a firm and intelligible commitment. And, of course, to really believe it. That is the genius of William Jefferson Clinton: He believes everything he tells us. And he tells us everything.

The polling data look like a solid endorsement of that genius, but the race is not over. Bob Dole, a grumpy old war horse, is appealing to some Americans as the "anti-Clinton." Dole is not a principled opponent of the status quo, or a dedicated tax cutter, or even an ardent champion of reducing the size of government. But he has been a man of what passes for honor in our government, and it is stunning that both Democrats and Republicans unanimously believe just exactly what they hear from Dole—that is, when they can decipher it into English. Whatever.

The most dramatic difference between these two candidates for president: There are some things (even those which rate 62 percent approval in the latest CNN/*USA Today* poll) that Bob Dole just won't say. One thing he will say every day from now to the election is that he wants a 15 percent across-the-board tax cut. The Clinton camp will press its charge that such a scheme would "bust the budget" and parade its phony deficit-reduction bona fides. That is not a bad place for the Dole-Kemp ticket to be. Dole, having been hammered for his effort to actually reduce the deficit to zero in the seven-year budget plan which led to the government shutdown, is saying to Clinton: "You want the balanced budget as your issue—fine, you take it." The budget plan put forth by Dole is easily legit by Clinton's own rules of budget politics, and an able, articulate defense is put forward by economist John Taylor of Stanford University.

There is no doubt that Bill Clinton's stars have lined up perfectly on the business cycle and that—constrained by Congress, public opinion, and a nervous bond market—he has been saved from actually implementing the now-buried "New Covenant." But the massive Clinton polling edge among seniors indicates the rising economic tide does not lift all votes equally. "Shameless exploitation" of Medicare has provided lift-off for the president's re-election bid. Yet Bob Dole has at least succeeded in spinning Clinton around on the deficit. Instead of allowing his opponent to sell the glitzy model home (i.e., Medicare benefits), Dole has opened up a plush new tract of his own (tax cuts), and will let Clinton sell the vacant lots (future benefits in the form of lower deficits). That is a much tougher sell; we have yet to see if anyone really cares about the unimproved property called a "budget deficit." Many economists think not—which is why we get deficits about 29 years out of 30.

Clinton, having repudiated his 1992 platform and presenting a picture of fiscal austerity which Steven Spielberg would admire for its special effects, may succeed in vanquishing a lifelong advocate of fiscal austerity.

Pundits have written off Dole since springtime polls showed no closing of the 10–20 point gap opened by Clinton's "Mediscare" demagoguery last winter. But it has always been a race—which is just why Clinton has been running so hard. It may still be one. Do not forget that Clinton detests being so far out in front. He feels titillated "on the edge," as Elizabeth Drew called her compelling account of the first two years of the Clinton administration. Example: In spring 1996, sailing in the polls, Clinton pauses to ad lib during a fundraising dinner in Connecticut about the frozen Inca virgin, Juanita, discovered in the Andes and put on display at *National Geographic*. I quote our president: "Did you see the mummy? If I were a single man, I think I'd ask her out. That's a good-lookin' mummy. I bet I'll hear about that before this is all over."

Now, suppose you were even a junior political adviser to the president. Would you really have to perform complex analysis, or convene even one focus group, before telling your boss: "Sir, please don't go there. Jokes about dating teen-aged virgins, even if dead for 500 years—no, no. And, sir, please do not begin a sentence with, 'If I were a single man...'"? Not a tough call, as shown by Bill Clinton's instant analysis about what would follow. But the president knew exactly where he was going: He was heading straight to the edge of the electoral cliff. Dole hopes that Clinton goes there once too often to dare the gods—and that something makes his knees knock.

If not, then Clinton, having repudiated his entire 1992 platform and presenting a picture of fiscal austerity which Steven Spielberg would admire for its special effects, will succeed in vanquishing a lifelong advocate of fiscal austerity—on the grounds that "plain-speaking" Bob Dole cannot deliver what he promises. This would be a sensational event in the history of the republic, and the magic that is America will surely be complete. For it will show that literally anything that can be produced can be sold, if only people believe the president of the United States of America. God bless us all. ®

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Winners and losers at the national conventions

By Thomas W. Hazlett

Best Button: Democrats

The Republican entries were formidable, including "Wake Up—And Smell the Clintons," and "Annoy the IRS—Support the Flat Tax." But the Dems really have a flair for viciousness, and that's what good buttoneering is all about. "Nuck Fewt" seemed rather popular, and "Nobody Ever Heard of a Good Piece of Elephant" is sure to rile the animal-rights crowd. One button worn by a Democratic delegate also made a big impression: "HEY NEWT—CALL YOUR PROCTOLOGIST...THEY FOUND YOUR HEAD." This was proudly displayed as we were leaving Mr. Clinton's acceptance speech, with his pledge of a "campaign of ideas, not insults."

But in my estimation "Dole IS 96" was the perfect lapelwear for the Dems' Chicago Convention. It points out that the opposing candidate is far too elderly to assume high public office by employing the same commitment to truth and accuracy the Clinton White House has relied on in compiling its deficit reduction numbers (Dole is, in fact, 23 years younger than 96—the same age gap between him and Bill Clinton). More important, the slogan subtly makes the crucial distinction that cynical references to a person's physical characteristics are rude and insensitive, except when that person is a mean-spirited Republican attempting to impose an extreme right-wing agenda on an innocent America.

In any event, Bob Dole is probably no older than the majority of the '60s rockers who hobbled around Chicago, missing performances (Stephen Stills was a no-show at a party I attended). Then too, the Bobster is still on his first liver.

Best Bumper Sticker: Republicans

"VISUALIZE IMPEACHMENT" is to a GOP activist what a bleached blonde with a twang is to Mr. President. Indeed, the fantasy-prone Republican insiders have been sporting fender-wear proclaiming "PRES. GORE: DON'T PARDON HILLARY" for some months now.

Of course, the various crimes and misdemeanors of the Clintonites have now been turned into campaign talking points for the *Democrats*—as in Tipper Gore's applause line in her convention paean to Hillary as "a woman who always maintains her grace, dignity, and humor, even while being subjected to the most unimaginable incivility." Placing New York Sen. Al D'Amato in charge of the Whitewater hearings, of course, was a stroke of evil genius by GOP operatives who desire to lull their opponents into thinking that they are pure imbeciles. Although I am not privy to the long-run strategy involved here, look for something really huge to take us all by surprise in the moments leading up to election day.

Worst Bumper Sticker: Democrats

The Republican entry, "SAVE THE WHALES....Until We Get More Tartar Sauce," made a noble bid for this title, and

ILLUSTRATIONS: ART MATSON

I actually liked "STOP GLOBAL WHINING."

But the '60s crowd hovering in the smoky confines of a Chicago jazz club topped these mightily. Confirming the suspicions of the crack REASON espionage team that the Democratic Party serves as a cover for *agents provocateurs* opposed to any hint of space-age capitalism, I was handed a bumper sticker reading: "FED UP WITH 'PROGRESS'? Write-in UNABOMBER For PRESIDENT '96." Yeah, that's the ticket for a far-out fireworks show. And if he loses in a close race to Bill Clinton, he might just snag an appointment as Postmaster General.

Best Protest Sign: Republicans

In the designated protest area, a leftist bore the following poster: "WE DEMAND HUMAN RIGHTS, LAND, MONEY, NEW HOMES, NO THREE STRIKES." Fair enough. But how many square feet? Who pays for carpets and drapes? And how many strikes?

Best Street Pamphlet: Democrats

In the tradition of Thomas Paine, the conventions are always surrounded by scores of leaflet distributors attempting to communicate their views to the movers and shakers of America. The Democrats had two bold entries, beating the San Diego pamphleteers hands down.

The first was a Teamster flyer (a stapled stack of pages, really) which detailed the juicy details of criminal actions being taken by an opposing union official. It began: "IMMEDIATE PRESS RELEASE. Enclosed is the immunity document signed by Teamster President Ron Carey to save himself from prosecution for embezzlement while in turn selling out 1.4 million Teamster families. Also enclosed are the articles documenting his shady inheritance of $395,000 from an elderly woman in New York and his use of trusteeships to further his own political career at the expense of the U.S. taxpayers." A Teamster official mixed up in questionable deals? Go figure.

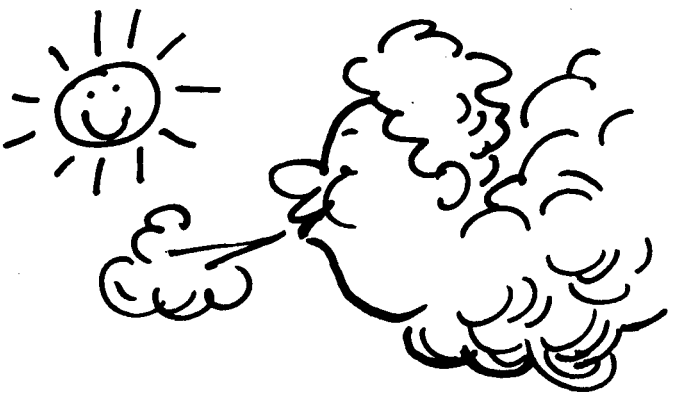
But the clear winner in this category has to be the photocopied brochure I received pushing "A Long Overdue Bill With Teeth"—a constitutional amendment to the effect that "EACH AND EVERY AMERICAN CITIZEN MUST BRUSH THEIR TEETH AFTER EACH AND EVERY MEAL AND BETWEEN EVERY SNACK." While the need for such a "long overdue" amendment may seem obvious to many, the brochure nicely detailed that a "MANDATORY TOOTH BRUSHING LAW" was, in fact, a "FEDERAL EMERGENCY," and thoughtfully included diagrams as to proper brushing techniques. The political argument was compelling, as well: "Effective use of tartar control now will prevent the need for crowd control later on." The pamphlet established that forceful measures might be necessary, including "Formation of elite dental commando squads to perform random house-to-house no-knock dental inspections." Perhaps somewhat more controversial was the advocacy of "Utilization of recombinant DNA test tube gene splicing to create an army of winged monkeys to aid in this effort (hereafter to be referred to as 'tooth fairies')." But, as to the essential premise that "Proper dental hygiene is essential to proper social order....An ounce of prevention is worth a pound of flesh," there could be no escape. Just like HillaryCare.

Most Hazardous Duty: Republicans

Getting between Billy Baldwin and some women at the Planet Hollywood in San Diego. Don't try this without shoulder pads, and a canister of mace wouldn't be a bad idea in case it gets ugly. This was at a fundraiser for the Creative Coalition, a group of Hollywood leftists (Baldwin, a Democrat, included) who strongly advocate the downfall of the free enterprise system, making just one tiny exception concerning the enforcement of monopoly rights to intellectual property—a philosophical abstraction they are apparently willing to die for.

Best Weather: Chicago

Even without adjusting for degree of difficulty, the Chicago weather was actually cooler and more pleasant than hot and steamy San Diego. Is Bill Clinton the luckiest man in America, or what?



Weirdest Special Effect: Republicans

When House Majority Leader Dick Armey gave a talk at a party at Planet Hollywood, his visage was available to most partygoers only on the big screens placed strategically throughout the drinking hall. The backdrop for Armey was a montage of various celebs, including Demi Moore, Mel Gibson, and Roseanne, who appeared to be smiling and genuinely interested in the message delivered by the professor-congressman from Texas. The magic of technology!

Best T-Shirt: Democrats

Bearing the logo of the Chicago Police Department, it read: "Democratic National Convention—1996...We kicked your father's ass in 1968...Wait 'til you see what we do to you!"

Best Spin: Democrats (in San Diego)

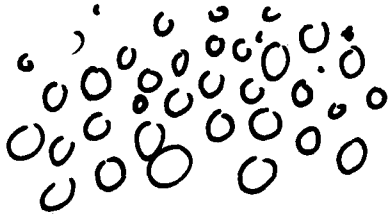
Sen. Christopher Dodd (D-Conn.), chairman of the Democratic National Committee, roundly thwacked Bob Dole for his plans to campaign in Chicago during the Democrats' convention. This, according to Dodd, was the height of rudeness and political insensitivity. He issued the blistering rebuke at a press conference held in San Diego—during the GOP Convention.

Best Commercial Tie-In: Republicans

Immediately adjacent to the San Diego Convention Center is the Baja Brewing Co., a superbly managed facility which employed the following banner during the festivities: "We Don't Need No Stinking Donkeys." No doubt, this company will soon be featured in a Tom Peters special on PBS.

Best Balloon Drop: Democrats

This key category was no contest. The Robert Reich–sized San Diego Convention Center simply had no vertical leap. In fact, the San Diego complex was a shockingly inadequate facility all the way around, and the Republicans have only themselves to blame for snuggling into such a cozy dormitory. I clocked the actual hang time at the GOP Con at just 4.0 seconds—that's the interval between when a balloon is released until it hits a delegate in the head. (Red, white, and blue orbs all appeared to have approximately equal trajectories.) The Democratic balloon drop, in stark contrast, was the best I have ever witnessed, a plush sea of bouncing patriotism. Hang time was an incredible 23 to 34 seconds (the wide variance owing to the occasional downdrafts some balloons would be pulled into). It was magnificent—and remains the best reason I can think of to be a Democrat.



Best Confrontation on First Principles: Republicans

Here was the theological stand-off of the season: A Buchanan supporter totes a sign announcing, "GO TO CHURCH, NOT HELL." Close by, a long-haired American answers back with his: "JESUS IS DEAD. HAVE FAITH IN YOURSELF." I'll tell you how this is resolved just as soon as I hear anything.

Best Corporate Promotion: Democrats

The Pacific Bell folks were out in force for the GOP Con, all excited about being able to introduce their new PCS (digital cellular) wireless telephone system to the rich and famous. Their scheme, however, was boneheaded: They handed out about 600 phones free (for the week) to those considered political big shots (then charged 15 cents per minute for access time). This only led to a bunch of knuckleheaded congressmen who don't ever see their cell phone bills—and have no idea that they're even using a new product—getting to employ the service, while a whole long list of the rest of us got furious for not being offered the chance to even *buy* service.

In Chicago, Ameritech happily offered one-week wireless phone rentals with pre-paid time cards. For $20, the Dems went for the deal Big Time. Result: Cell phones were ubiquitous in Chicago, rather rare in San Diego. This should be a major embarrassment for high-powered Republican executives coast to coast.

Worst Felony Committed by a Delegate or Dignitary: Republicans

After a wonderful party thrown by *National Review* on the first night of the GOP Con (beautiful backyard, with a gorgeous view of San Diego Bay, at a house owned by a rich Republican who no doubt dreams of capital gains tax relief), I go to redeem my vehicle from the valet. I travel just three blocks before discovering that I had been delivered a white Avis Thunderbird that only looks like my white Hertz Thunderbird. Upon returning to the scene of the crime, I am told that my car has already been issued to someone else. By the time I stumble into my hotel room at 2 a.m., I have discovered circumstantial evidence which indicates that the person who has apparently traded automotive units with me is staying at the Marriott.

Sure enough—it turns out that the Right Honorable Congresswoman Jennifer Dunn of the state of Washington, a leader of the freshman class of '94, is the thief in question. (My diligence in

solving this case is not, I should add, an altruistic defense of the Hertz Corp. My briefcase and cell phone are in the absconded vehicle.) Ms. Dunn is not happy to hear from me. Upon learning of the situation, she admonishes: "Couldn't we please take care of this in the morning? I have to give a speech at 9 a.m. and I would really like to get some sleep. I will have my staff trade the cars later, if you don't mind."

I am stunned by the unrepentant attitude. "I would like to point out that you have taken my car, and my personal effects are in that car," I politely caution—omitting any mention of the California Code covering grand theft auto. While the cars are later exchanged without further excitement, I am shocked by the rapidity with which the Republican revolutionaries came to view the people's property as their own.

Best Corporate Reception: Chicago (Sprint)

The Democrats are so boisterously in favor of the "public interest" that they are tempted to boast about their big business connections. Banners all about Chicago proclaimed "THE 1996 DEMOCRATIC NATIONAL CONVENTION PROUDLY RECOGNIZES ITS OFFICIAL SPONSORS." The party of the common man is delighted to have the active assistance of United Airlines, GM, AT&T, Bay Networks, Xerox, Ameritech, Lucent Technologies.

But the best party was hosted by Sprint. The Shelter was totally groovy, a cave-like club with lots of rooms, lava lamps, and little nooks where it looks like you're not supposed to go. Two rock bands. Dancing. Open bar. Good eats. And they let me in without an earring or a ponytail!

Worst Corporate Reception: San Diego (Sprint)

Really, this is a little harsh. Everyone put on terrific spreads in both cities this year. Being a telecommunications wonk, I applaud the Nynex Crystal Garden reception in Chicago for its outstanding Chinese cuisine; the Ameritech spread for journalists in Chicago was equally fulfilling (and crowded, as the press really lives for the proverbial free lunch); the Pacific Telesis hospitality suite in San Diego offered up consistently delicious hors d'oeuvres—and great souvenir baseballs.

But the damn weather in San Diego was steamy hot, and having to sweat for cocktails and tasty treats, not to mention being subjected to some gratuitous country and western crooning, was very nearly too much for this freeloader to endure. Nearly.

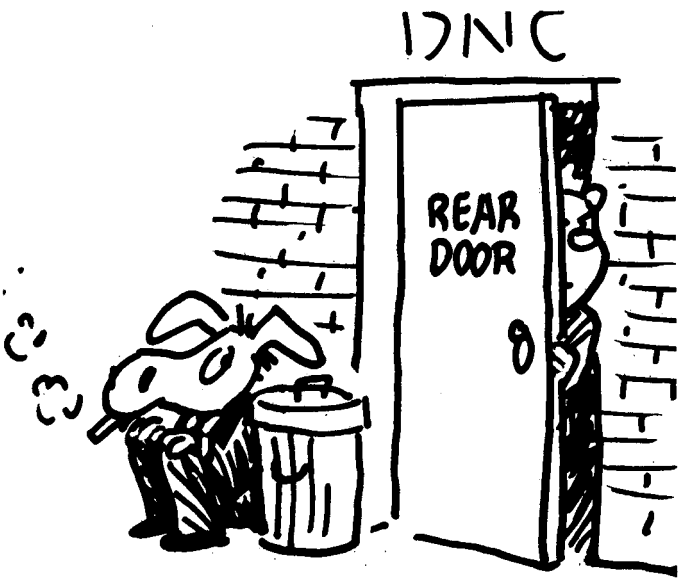
Best Remodeling: Republicans

Dick's Last Resort, a chain operation made profitable by the large gross margins available on liquid refreshments, was to host the Texas delegation's Wednesday night party when it became known to certain members of the Christian Coalition (which surely maintains an alert intelligence staff to sniff out just such potential breaches of national security) that the establishment was famous for its collection of women's bikini tops tacked to the bar, ceiling, and other structural foundations.

So as not to insult (or otherwise excite) the sensibilities of their visitors, Dick's personnel untacked these decorator items and stored them neatly away. That, needless to say, was a smart housekeeping decision, although my suspicion is that at least a few of the pious partyers may have noticed something amiss.

Most Improbable Interest Group: Democrats ("Smokers for Clinton.")

Actually, I just made this up. But there was a ton of smoke being puffed in Chi-town, and I would bet that, President Clinton's firm desire to light up his poll ratings notwithstanding, Dems outsmoke Reps 2 to 1. That's in the cigarette category. Republican women were often seen in San Diego toting stogies, and one can only guess what the source of that purple haze was in Chicago. One suspects that, when it comes to cigarettes, the Democrats were rolling their own. The season's easiest bet: They inhaled.



Single Worst Line: Republicans

This was a very, very tough category. The Clinton video actually had Hillary's mom saying that she loved Bill "for the way he's defended and loved my daughter." Yeah, he's quite a hubby. Then there was Hillary's incredible "it takes Bill Clinton" to raise a child. Millions of concerned moms and dads exclaimed, "Not

with *my* child you don't."

But Newt the Magnificent topped them all. Gingrich intro'd his convention address by bringing on an Olympic gold medalist in beach volleyball and then wowed the crowd by noting: "That's what freedom is all about." Well, those East German musclewomen, and Romanian gymnasts, and Bulgarian weightlifters would like to second you on that one, Newt. In fact, even Hitler proved an impressive athletic supporter, if you catch my drift. It turns out that the well-defined, unimaginative, no-brainer rivalry which comprises sporting events generally, and the Olympic games in particular, is tailor-made for the slavish devotion of totalitarian whip crackers. Back to the zoo, Newt; your animals are calling!

Most Embarrassing Speech: Republicans

I know: Too much competition. But the Committee must award this to Robin Dole, candidate for first daughter. It really wasn't her fault that the candidate desperately needed to display his family values on national TV, but telling America why dad would make a swell president is a goofy way to talk to America (and recounting how he kept losing his daughter at a state fair is hardly inspiring). Especially at age 40.

Next time, Bob and Liddy: Adopt a teenager. You can return him/her after the campaign is over (the biological parents will probably make it easy by suing for custody, which would even give you some extra face time on *Ricki Lake*). Better yet, just do it like the Clintons, exploiting Chelsea with reference after reference in the prime-time speeches. That way, the daughter can just wave into the camera and flash a big, happy, "Thanks, Pop!" type o' smile.

Most Embarrassing Line by a Reporter: San Diego

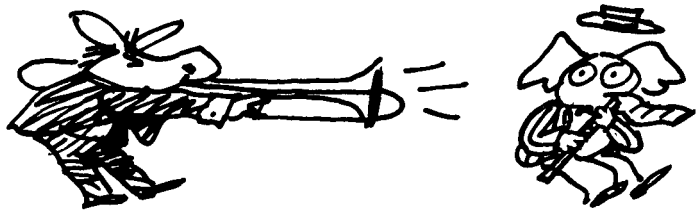
Ted Koppel's decision to pack up the *Nightline* motorvan and to putt-putt home in mid-convention was a truly frightening glimpse into the mindset of one of America's best broadcast journalists. I really hope it was the humidity and not the stupidity, but here is what Koppel said when storming out in Day 3: "Nothing surprising has happened. Nothing surprising is anticipated."

Yes, Ted, that's about the dictionary definition: If it were anticipated, it really would not be a surprise. But you've circled yourself on this one. If nothing surprising occurred, you must have seen what you fully expected. So, why storm out? To say the conventions are scripted is to be literally correct. I've been attending these things since 1980, and it has always been so. Speakers read speeches from the podium as the press reads the prepared text right along with them. In fact, the Koppel hissy fit was most bizarre in that something surprising had happened: The Republicans put on a good show. To some, that's worth leaving town to avoid.

Best Music: Democrats

The Republicans did introduce Bob Dole with a swell tune, "Gonna Fly Now," the *Rocky* theme, but the orchestra was weak and the acoustics dismal. Moreover, Dole's speech led into a very elevatorish melody which, in turn, was prelude to Travis Tritt (ubiquitous in Republican San Diego; whatever happened to Tanya Tucker and Lee Greenwood?) who inexplicably took every thing straight south with one of those melancholy (i.e., depressing) country songs. This, remember, was at the climactic, ultimate celebratory moment when the pom-poms, confetti, and screamers were at full throttle.

The Democrats, building on their upbeat 1992 Fleetwood Mac score, "Don't Stop (Thinking About Tomorrow)," had only to show up to beat the downbeat GOPers. Not only did they show, they grooved again—with Aretha, Kenny G., and a phalanx of rockers, gospelers, jazzers, and grungers, culminating in a post-Clinton acceptance speech burst of Chicago's reliable hit, "This Is the Beginning."



Best Elitists: Democrats

Consider James Carville in San Diego. A reporter there saw Mr. Matalin buy a bottle of French wine for $48.48 on his credit card. *We're Rich, They're Not* for your next best-seller?

Best Deaf Captioning: Republicans

The GOP closed-caption display on the convention center big screen seemed reasonably close to what was being said, but the Democrats had trouble. Sensational gaffes appeared regularly, as when the Chicago policeman's reference to "jack-booted thugs" was translated as "jack-buddhist thugs." Or when the term "anti-racketeering law" came out as the "anti-racket earring law." A product of NEA-backed schools? ®

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After Affirmative Action

Life under an executive order suggests the future of affirmative action in a post–CCRI California.

By Michael Lynch

Last year, in a speech that defied political gravity, President Bill Clinton threw his support behind affirmative action while coining the phrase "mend it, don't end it." Clinton's mini-couplet quickly became the mantra of those seeking to maintain the affirmative action status quo. In California, where voters will decide the future of the state's racial and gender preferences in November, opponents of the California Civil Rights Initiative have picked up on Clinton's rhetorical waffle, charging that the initiative is too blunt an instrument with which to fix the delicate apparatus of affirmative action. These programs, we are told, must be left to nimble-handed professionals, whether they be bureaucrats or lawyers.

In fact, the only hope of mending affirmative action lies in just such broad instruments as the CCRI, which tie the hands of those who would use the government to grant privileges based on race and gender. Recent reforms in the affirmative action programs in the California State Civil Service illustrate why. They also provide a template of how city and county governments in a post–CCRI California can craft programs that, while expanding opportunity, neither grant preferential treatment nor discriminate based on race, ethnicity, or sex.

Taking Executive Action

On June 1, 1996, California Gov. Pete Wilson made the first effort by any elected politician to fix affirmative action, by issuing Executive Order W-124-95. Wilson's executive order mandated that agencies and departments "eliminate all preferential treatment requirements that exceed federal or statutory law" and set goals and timetables, which are required by statutory law, based on "the employment pool possessing the necessary qualifications for the particular job classification at issue, rather than on general work force parity."

Wilson's attempt to modify the program came a quarter century into the state's affirmative action effort. In 1971, Gov. Ronald Reagan issued an executive order stating that "justice demands that every citizen consciously adopt and accentuate a personal commitment to affirmative action which will make equal opportunity a reality." In 1977, the legislature mandated that each agency and department set up an affirmative action program and "establish goals and timetables designed to overcome any identified underutilization of minorities and women in their respective workforces." The State Personnel Board was charged with overseeing the affirmative action programs.

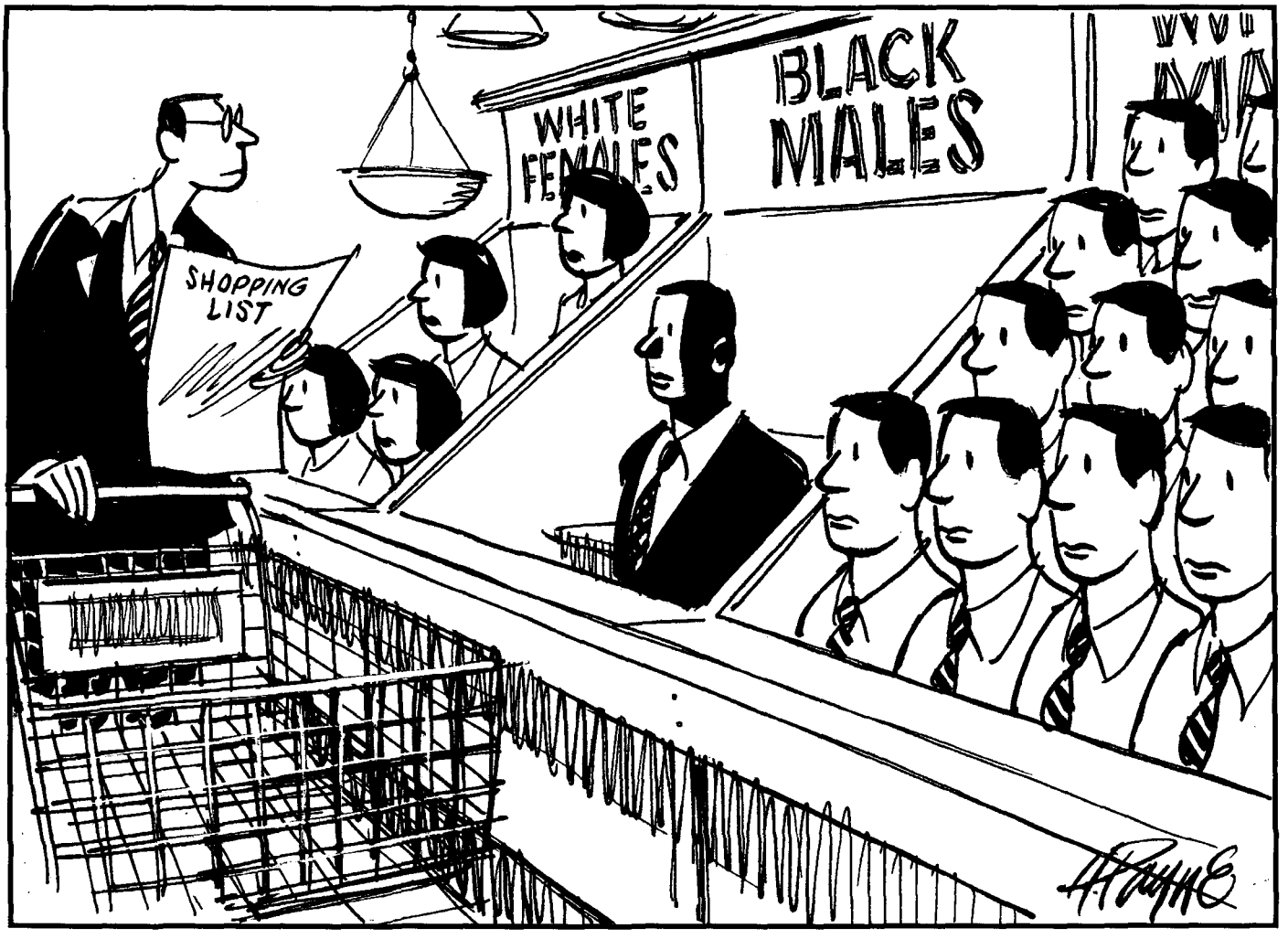
Wilson, with the stroke of a pen, achieved what the personnel board professionals had long been unable to accomplish in the face of interest-group politics: His executive order forced the state to create an affirmative action program that, at least on paper, is based on expanding opportunity, not granting preferences.

Wilson's order had two major effects. First, although Wilson lacked the power to abolish affirmative action goals and timetables by executive action, the order mandated that state agencies conform to federal law by using "relevant labor force" data to set such goals. This meant that if the state was hiring lawyers, the benchmark labor pool would be only the people who had actually passed the state bar. Likewise, only the composition of those in the private-sector work force with a college degree could be used to determine whether minorities and women were underrepresented in state jobs that required similar credentials. Second, the order prohibited agencies and departments from using the goals and timetables to grant preferential treatment to individuals in the hiring process.

The significance of Wilson's reforms shouldn't be obscured by the welter of bureaucratic jargon: It is perhaps best demonstrated by the ferocity with which the changes were resisted.

In the late 1980s, a series of U.S. Supreme Court decisions restricted the ability of state and local governments to justify their affirmative action programs based on statistical disparities. In 1989, the Court ruled that governments must use relevant labor force data—statistics on the individuals who actually meet the qualifications for a job in the area in which the government would be reasonably expected to recruit. At the time, the state based its goals and timetables on "general labor force" data, which was simply the ethnic and gender composition of California's entire private sector work force.

The switch to using the relevant labor force is a disaster for the state's ethnic interest groups, such as Black Advocates in State Service, CAFE de California (which represents Hispanics), and the Mexican American Legal Defense Fund, who over



HENRY PAYNE

time had secured a hiring structure that greatly benefited their constituency groups. Managers, for example, were often required to justify in writing the hiring of a white man over available minorities; managers' performance reviews were even tied to their success in meeting hiring goals.

As a result of these incentives, every minority group except Hispanics was either hovering around parity or was overrepresented among state employees—even by the general labor force standard. African Americans, for example, were overrepresented on the government's payroll by nearly 90 percent. If the state were to use relevant data, the interest groups knew that their already tenuous claims to underrepresentation would become laughable, and that their power to deliver government spoils to their members would be drastically eroded.

In an effort to conform to the law, Ted Edwards, manager of the State Personnel Board's affirmative action division, called an informational hearing in 1989 to try to design a legal program. An impressive array of advocacy groups testified. Edwards says the meeting produced a "mixed reaction" and that "nothing immediately happened as a result."

Edwards called another hearing in March 1993 to implement a goal-setting process using the relevant labor force data, to bring the state into compliance with the law. "By that time, I had finished my analysis of various Supreme Court decisions, and I was convinced that some of our current affirmative action practices were not consistent with Supreme Court case law," Edwards recalls. The reaction was heated. "Advocacy organizations came in and strongly objected to our staff recommendation to change the goal-setting process to use relevant labor force comparisons," Edwards says. "It was rather blistering testimony."

As a result, the status quo held firm. Jose Perez, then assistant director for affirmative action for Caltrans, the state's transportation agency, summed up the meeting in Caltrans's 1994 affirmative action plan: "The SPB considered using relevant labor market rather than general labor force data to set affirmative action goals for employment. After considerable debate and public reaction, the five-member Board tabled the issue indefinitely."

In other words, the state chose to willfully violate the law. It wasn't until a Caltrans employee threatened to sue the state that Edwards was allowed in 1994 to create a pilot program that used relevant labor force data at Caltrans, the Department of Corrections, the California Highway Patrol, and the Department of Education.

The refusal to use relevant labor force standards, even though required by U.S. Supreme Court case law, is an object lesson in why blanket prohibitions against choosing by race, such as the CCRI, are needed if affirmative action is ever to be mended. President Clinton talks about "mending" affirmative action just

as his Department of Justice works to expand such programs as 10 percent bid preferences for minorities, and there is just as little enthusiasm for "mending" affirmative action among most of its practitioners in state government.

Disappearing Disparities

In 1995–96, California's agencies and departments set their hiring goals using relevant labor force standards for the first time, with predictable results. Findings of disparity in the work force dropped from 26 percent to less than 5 percent. While 1,108 hiring goals were set under general labor force data in 1991–92, the last year the state compiled a report, only 235 hiring goals were set in 1995–96 after switching to relevant labor force numbers, a reduction of nearly 80 percent.

California Civil Service Parity

Target group	Employees #	Employees %	General labor force parity* %	Representation minus parity %	# of jobs added or subtracted if parity existed
White	110,551	57.8	60.4	–2.6	4,945
African American	22,218	11.6	6.2	5.4	(10,362)
Hispanic	33,255	17.4	23.6	–6.2	11,872
Asian	11,810	6.2	6.3	–0.1	237
Filipino	8,004	4.2	2.3	1.9	(3,606)
American Indian	581	0.3	0.6	–0.3	566
Pacific Islander	707	0.4	0.4	0.0	58
Other	4,092	2.1	0.2	1.9	(3,710)
Total	**191,218**	**100.0**	**100.0**		
Male	99,669	52.1	56.0	–3.9	7,413
Female	91,549	47.9	44.0	3.9	(7,413)
Total	**191,218**	**100.0**	**100.0**		

*California Civilian Labor Force (1990 Census)

Hiring goals are set for specific classes of jobs, such as entry-level positions requiring a college degree, and often entail more than one hire. A timetable, usually between one and 10 years, is set along with the goal. For example, in 1995–96 the Department of Corrections set a goal in the Staff Services Occupational Group to hire five African Americans in two years. The department also set goals in correctional officers for 17 whites in one year, 11 Asians in one year, 13 American Indians in three years, and nine women in one year. Since goals can be set only after a finding of statistical disparity, which is assumed to be the result of discrimination, this large reduction in goals indicates that when accurately measured, discrimination against minorities plays a much smaller role in state hiring than once thought.

In fact, using relevant labor force data (RLF) made clear to department managers that two of the most underrepresented groups were whites and men. Some departments, including the Department of Education, the Franchise Tax Board, and the California Department of Health Services, even set goals for these two groups. Other departments, while finding underutilization of whites and men, chose not to set goals for them. California's Employment Development Department, for example, set eight goals for 181 hires for such groups as African Americans, Hispanics, American Indians, and women. But their own statistical analysis showed that the two most underrepresented groups in their work force were whites, who were underrepresented by 2,252 jobs, and men, who were underrepresented by 942 jobs.

The switch has been met with mixed reactions. Drew Mendelson, a spokesperson for the California State Employees Association, the state's largest union, opposes the use of relevant labor force data to set goals. "RLF may be more accurate in terms of who has individual qualifications, but it is inaccurate in that it ignores the fact that we have reached a certain balance based on inequality of opportunity before," states Mendelson. "You have to say why is it that if 10 percent of the population is black, then why aren't a tenth of the lawyers black?"

Sharon Felix-Rochon, director of equal employment opportunity at the California Department of Education, supports the move because she feels relevant labor force data provide a more accurate gauge of who is available to fill specialized jobs. "When we get to job classifications that require specific credentials, then the relevant labor pool is appropriate." Felix-Rochon, who reformed hiring in her department before Wilson's executive order, believes that the former system had degenerated. "What happened unfortunately is that there had been so much emphasis on numbers—it became a numbers game—and we failed," she says. "People would look at the numbers, and if the numbers didn't reflect the goals, we would get sanctioned. Advocacy groups would call the departments and call people racists just based on the numbers."

Lance Barnett, who became executive director of the State Personnel Board just in time to implement Wilson's reforms, also supports the move to RLF data. "It got the departments down to a workable set of goals," states Barnett. "Shifting from 'general' to 'relevant' allowed departments to focus their efforts where they could really make a difference."

Edwards, the affirmative action manager, feels that most agencies are satisfied with the new standards. "Relevant labor force is really the only thing that makes sense," states Edwards. "You can't hire in greater numbers than actually exist in the labor force."

Making California's Goals Run On Time

The second facet of Gov. Wilson's reforms addresses how departments are allowed to use their goals and timetables. Preferences, which are what the CCRI would outlaw, have to manifest themselves in a process. It is theoretically possible, as those at the personnel board uniformly claim, that goals and timetables are used merely as a census-like device to help managers examine their hiring processes and strengthen their outreach efforts.

Edwards points out that there are two components of affirmative action programs, as they have traditionally been imple-

mented: preferential and non-preferential. Non-preferential affirmative action—or, in popular terms, "equality of opportunity"—focuses on ensuring that recruitment efforts are broad and that selection processes and criteria are free of bias. Preferential affirmative action includes programs and practices that treat people unequally in order to ensure an equality of result.

Wilson's order eliminated preferential affirmative action. Specific practices that were discontinued or prohibited include:

- Using separate hiring lists for hiring individuals from protected groups;
- Requiring managers to write letters justifying the hiring of a white person when there were individuals from protected groups on the short list;
- Allowing a department's affirmative action officer to unilaterally veto a hire;
- Evaluating managers, in part, on how well they meet their affirmative action goals; and
- Requiring that either a woman or a minority sit on every hiring panel.

Barnett, the personnel board chief, maintains that the focus under the new system is on ensuring that the process is fair. "The key is to make sure that your qualified candidate pool resembles the relevant labor force and then rely on your selection criteria to be unbiased to get proportional representation," he says.

At least on paper, it appears that the board has succeeded in crafting an affirmative action program that doesn't rely on preferences. As such, it provides an example of how affirmative action will look in post–CCRI California. "The E.O. has accomplished in the state service what the CCRI will accomplish more broadly, which is taking preferences out of our employment processes," explains Ted Edwards, who nevertheless opposes the CCRI for not giving government officials enough flexibility. "The CCRI does not in and of itself eliminate affirmative action. Affirmative action is broader than just preferential actions."

Twofer White Males?

Even Ward Connerly, the outspoken chairman of the CCRI campaign, voices support for the parameters of the state personnel board's new program. "The California Civil Rights Initiative is designed to end affirmative action programs that grant preferences based on race, ethnicity, and sex, but we really want government agencies to examine their hiring practices to make sure they do not discriminate," states Connerly. "What the state has done under Governor Wilson's leadership is a clear example of what can be done in a post–CCRI era."

Some experts, however, feel that quantifying goals by race, ethnicity, and gender is preferential and unconstitutional. Indeed, Wilson, having accomplished all he could by executive action, is suing the state, arguing that the statutes that require goals and timetables violate the U.S. Constitution. "The goal is by definition discrimination based on race and gender," states Robert Corey, an attorney at the Pacific Legal Foundation who is litigating the governor's case. "Its very existence gives managers license to discriminate against innocent people based on the immutable characteristics of race and gender."

Using relevant labor force data made clear to department managers that two of the most underrepresented groups were whites and men. Some departments, including the Department of Education, the Franchise Tax Board, and the California Department of Health Services, even set goals for these two groups.

There is often a disconnect between official policies, especially those set by overseeing agencies, and how things actually work in practice. Indeed, a memo titled "Revision to Fiscal Year 1995–96 Affirmative Action Goals and Timetables," from the Department of Alcohol and Drug Programs, supports Corey's contention and indicates that civil service hiring may not be as race- and gender-blind as those in power would have us believe.

In this memo dated August 15, 1995, Lisa Fien, the department's equal employment opportunity officer, wrote: "Eight vacancies are anticipated to be filled in the Staff Services Occupational Grouping [the entry level civil service position for college graduates]. Four (4) vacancies will be filled by whites; four (4) filled by men." Note that these are not only quotas, they are quotas set for whites and men, in which a white man can be a "twofer" hire, a bonus formerly reserved for minority women. Nevertheless, such quotas are supposed to be a thing of the distant past.

While the personnel board is not taking a position on Wilson's case, Edwards defends the use of goals and timetables as a way to let department heads know what is going on in their work force. "Our responsibility is to ensure that employment practices are fair to all groups," says Edwards. "Unless you monitor your employment practices with statistical tools, to see that equal employment opportunity is a reality, it may not be." Edwards also points out that at least under the new process, it is the affirmative action office, not the hiring managers, that tracks the goals and timetables.

This final debate will be resolved only in court. But the state's affirmative action program has already been retooled from what had degenerated into an often irrational ethnic spoils system. Insofar as President Clinton and other affirmative action advocates claim to support only those programs that focus on equality of opportunity, as opposed to a quota-based equality of result, then they should lend their support to the CCRI. After all, it is only through such efforts that affirmative action has ever been mended. ®

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CLINTON CONFIDENTIAL

The best-kept secret of the Clinton years is economic.

By Richard B. McKenzie

When President Bill Clinton declared in this year's State of the Union address that "the era of big government is over," he was probably just playing politics, seeking to temper his "liberal" image and enhance his re-election chances. Still, there is some substance to his claim. Despite Clinton's own ideological leanings, the record for federal involvement in the economy during his first term is remarkable: It compares favorably with that of his presumed antithesis, Ronald Reagan.

In declaring the end of the big government era, Clinton was merely acknowledging a trend in American political and economic life that is driven by forces largely independent of partisan ideology and politics. Because free trade and electronic commerce allow capital to flow around the world, seeking the best return in the most congenial environment, the discretion of governments to regulate, manage, and exploit economic resources is shrinking. This fact of life will continue to constrain the actions of our political leaders, no matter how statist their sympathies or lofty their ambitions.

After Clinton's election, Dwight Lee and I argued that the damage the new administration could do would be limited by global economic forces. We predicted that "government, on balance, will be no greater a presence in the economy in 1996 than it was under George Bush." (See "White House Wager," February 1993.) We were right. In fact, based on the indices that fiscal conservatives generally use to assess a president's economic performance, Clinton is a more faithful successor to Reagan than Bush was.

Clinton's opponents have the strongest case on taxes: Federal revenues have shot up since Clinton took the oath of office. Conservatives understandably complain that Clinton pressed early for an increase in tax rates that helped hike federal tax revenues from 17.7 percent of gross domestic product in fiscal 1992 to 19.1 percent this fiscal year. Clinton's critics should not forget, however, that taxes in one form or another were also raised during the Reagan years—*four times*. Partly as a result of Reagan's push to cut tax rates at the start of his first term, federal revenues as a percentage of GDP dropped from 19.7 percent in 1981 to 17.6 percent in 1986. But by Reagan's final budget, they had risen to 18.5 percent of GDP. As shown in Chart 1, federal revenues as a percentage of GDP have been somewhat higher, on average, during the Clinton years (18.8 percent) than during the Reagan years (18 percent for Reagan's first term, 18.2 percent for his second).

Clogging the Drain

It's government spending, not simply taxes, however, that ultimately imposes a cost on the private sector by draining away resources that would otherwise create wealth. Government expenditures have risen by an average of nearly $55 billion a year in current dollars from fiscal 1993 to fiscal 1996. But the increase in *real* (mid-1996) dollars has been only $46 billion during the entire three-year period, for an average real increase in federal outlays of just 1 percent a year. While not exactly frugality, that compares very favorably with the 2.9 percent average annual increase in real federal outlays during the eight Reagan years. Also, as shown in Chart 2, federal outlays have fallen from 22.5 percent of GDP in 1992 to 21 percent this year. The federal government is taking a smaller share of the country's output, and federal resources are being spread more thinly over a larger economy with more people. The drop of one and a half percentage points may not seem very large, but without that drop federal outlays this fiscal year would have been more than $100 billion higher than they will be.

The unrecognized (or ignored) fact remains that federal spending this year and next year will be a lower fraction of GDP than it was in any year of the two Reagan terms: 21 percent in 1996 and 20.8 percent in 1997, versus Reagan's low of 21.3 percent in 1989. Average federal spending as a percentage of GDP during the first Clinton term, 21.1 percent, will be lower than it was under either of the two Reagan terms: 23 percent and 21.8 percent, respectively.

HENRY PAYNE

Conservatives will quickly object to using *total* government spending as a measure of the federal government's importance in the economy. While defense spending increased during the first Reagan term, the end of the Cold War provided an opportunity for easy cuts—leading to the ongoing decline in defense spending that began in the last half of the 1980s. But defense isn't the whole story. Federal spending went down as a share of GDP during both the Reagan and Clinton years even after subtracting not only defense spending, which has been falling relative to GDP, but Social Security and Medicare payments, which have been rising relative to GDP, and federal interest payments. Leaving out those three categories, federal spending declined from 8.9 percent to 6.3 percent of GDP between 1981 and 1989, only to rise rapidly under Bush, reaching 7.7 percent in 1992. This measure of spending started falling again under Clinton, dropping to 7.1 percent this year.

The eras of the Clinton and Reagan presidencies share an unremarked commonality: The growth in key measures of federal spending relative to GDP that occurred during the Carter years (and four prior administrations) was reversed under Reagan. Similarly, the relative growth in federal spending seen during the Bush years has been reversed during the Clinton years. And the recent decline in federal spending relative to the economy cannot be totally attributed to the Republicans' congressional victories in the 1994 elections. Nearly three-fourths of the percentage decline in the relative size of federal spending during the Clinton years occurred *before* the advent of the Republican Congress.

The Balancing Act

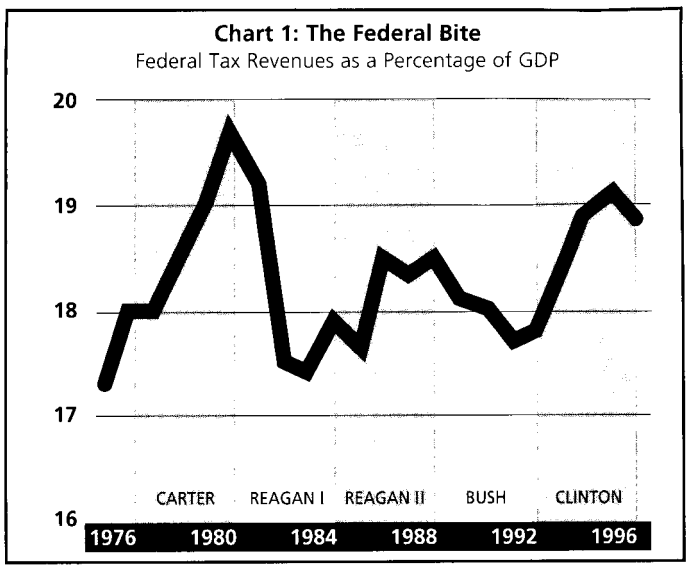
Balancing the budget has long been an obsession of fiscal conservatives, and it was a prominent item in Newt Gingrich's Contract With America. By this measure, too, the Clinton record looks quite respectable. The federal deficit has fallen from 4.7 percent of GDP in 1992 to 2 percent this year. The deficit averaged 5.1 percent of GDP during Reagan's first term and 3.5 percent during his second. During Clinton's first term, the deficit will average 2.3 percent.

Similarly, fiscal conservatives often fret about unproductive government workers. But contrary to the popular impression that the Reagan administration throttled government growth, the number of federal workers went up by close to 200,000—nearly 8 percent—during the eight Reagan years. By contrast, if the federal government is now playing a more disruptive role in the economy, federal workers must be getting more productive at what they do wrong. The federal government, like major private firms, is downsizing its staff. The count of federal workers fell by more than 150,000, or 5 percent, during the first three and a half Clinton years.

As evident in Chart 3, federal employment as a percentage of

total civilian employment has declined as well. In mid-1996, federal employment represented 2.3 percent of the country's total (nonfarm) employment, the lowest proportion since World War II. Furthermore, federal employment has averaged only 2.4 percent of the country's employed labor force during the Clinton years, lower than for Reagan's two terms, when the proportions were 3 percent and 2.8 percent.

The conservative trend can also be seen in the proclivity of the federal government to fund and staff its regulatory agencies. True, total federal spending on all regulatory agencies has risen substantially. It is up 4 percent in real dollars since Clinton took office. But the jump is caused in part by new regulations passed under Bush. And the climb in regulatory spending as a percentage of GDP that began during the second Reagan term and continued during the Bush presidency has been capped. This year, regulatory spending will be a slightly lower percentage of GDP than in 1993.



Employment in regulatory agencies has grown during the Clinton years, but only by 2,300, less than 2 percent. Given the absolute decline in overall federal employment, the growth in regulatory employment must have come at the cost of contractions in employment at other federal agencies. This means that any increase in economic damage done by more regulatory workers must be offset at least partially by less damage done elsewhere in the economy.

Of course, the cost of regulations is hardly limited to the salaries paid to government workers enforcing them. The real question is the regulatory burden placed on the private sector and not recorded in the federal budget. To capture regulatory trends, pundits and politicians have frequently cited the count of pages in the *Federal Register*, which records all proposed and enacted changes in federal regulations. Here, too, Clinton's record is better than Bush's. He has not yet achieved—and may never achieve—the low annual page counts recorded during the Reagan years (the lowest was 47,418). But the upswing in the page count that began during the second Reagan term and continued during the Bush administration has apparently been reversed. Between 1986 and 1993, the page count grew by close to 50 percent. During the first half of 1996, the *Federal Register* was publishing pages at a rate of nearly 66,000 a year, but that is 4,000, or 5 percent, fewer pages than were published in 1993.

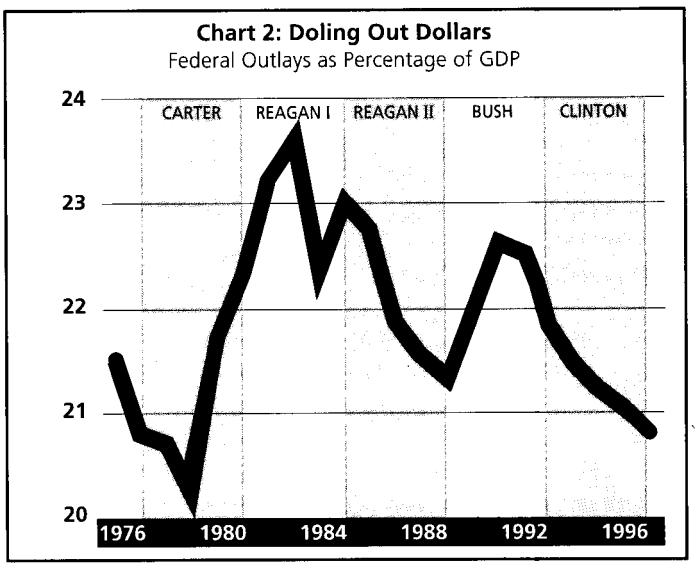
Reluctant Conservative

Noting the divergence between Clinton's economic record and his reputation and early rhetoric as a liberal, it is natural to wonder who this guy really is. Is Clinton a Roosevelt liberal or a Reagan conservative? The choice between the two political labels may be a false one. Neither admirers of Franklin Roosevelt nor fans of Ronald Reagan will find much comfort in Bill Clinton's policies during his first term. FDR liberals will worry that Clinton has put too little emphasis on extending redistributive programs, while Reagan conservatives will not likely forgive him for raising tax rates or tampering with labor markets.

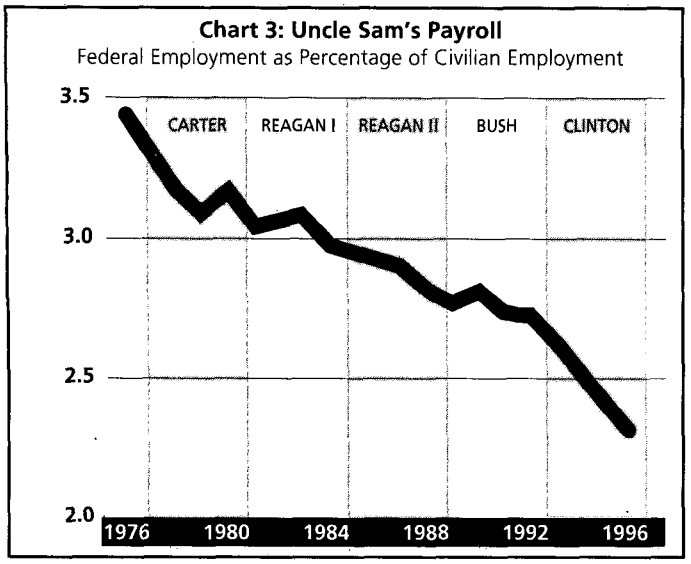
Clinton unsuccessfully pressed for a national health care system. He sought and secured mandated parental leave for workers and an increase in the minimum wage (with the votes of some Republicans). After resisting, however, he also in August signed welfare legislation that eliminates the entitlement status of cash welfare, establishes time limits, cuts spending by $55 billion over six years, and allows states to experiment with a wide variety of programs. Early in his term, he energetically supported passage of the North American Free Trade Agreement, which Ronald Reagan vigorously applauded.

Despite occasional agreement, Clinton and Reagan are decidedly different in their basic attitudes toward government. Reagan firmly believed that the overall size of the federal government was a fundamental problem. By contrast, Clinton seems to earnestly believe that the federal government should be a wellspring of policy solutions for many of today's social and economic problems. Still, the economic record for the federal government during the Clinton years, as evaluated by measures conservative Republicans hold dear, is decidedly more conservative than Bush's record and can, in key ways, be favorably compared to the record of the Reagan years.

There is, of course, a subtle but important distinction between



describing what has happened during the "Clinton years" (or "Reagan years") and identifying the "Clinton effect" (or "Reagan effect"). The economic record of any short span of years obviously results from the interplay of many domestic and global forces, not the least of which is the extent of partisan conflict and cooperation between the White House and Congress. No doubt,



the Clinton White House has been constrained by Republicans in Congress, with the differences between the two on budgets often a matter of a few billion dollars a year. While Clinton has benefited from the economy's growth, its lackluster performance relative to the 1980s may have worked against a more rapid decline in the relative size of government. All that can be done here is to let the record speak for itself.

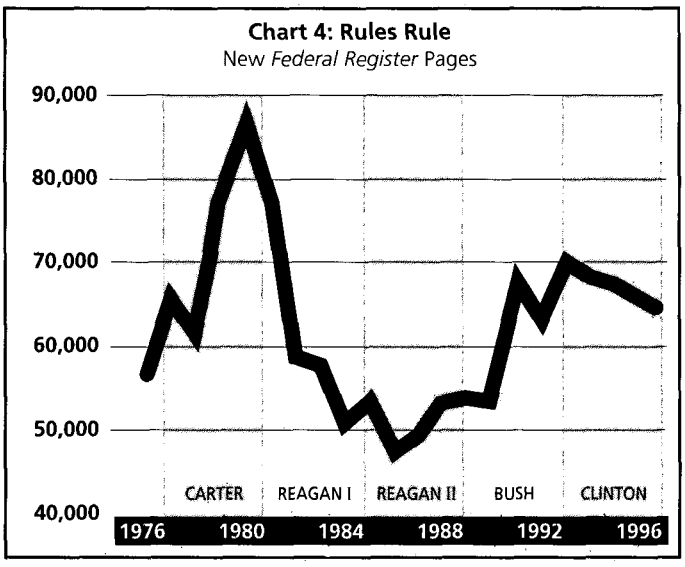
Neither Republicans nor Democrats are likely to welcome this review of the data. Republicans do not want the Clinton era to be painted with even moderately conservative stripes. They prefer to present their candidate to the electorate as only more conservative than a *very* liberal Democrat with a *very* liberal record on all counts, so that Bob Dole will not seem too far to the right. The real challenge for Republicans is to portray Dole—who is partially responsible for the economic record, good and bad, of the last three (if not 35) years—as more conservative than Clinton (and, for that matter, Bush) in not just rhetoric but policy substance. That's no easy task, given Dole's penchant to date for talking like George Bush—with little conviction, clarity, or specificity on matters of economic policy—and his record of support for tax increases, huge social programs such as Medicare, and regulatory monstrosities like the Americans with Disabilities Act.

Nor are Democrats apt to welcome my analysis. They do not want their liberal allies to see the Clinton years as more economically conservative than the Reagan years. Liberal Democrats may begin to see Clinton as ineffective in the pursuit of their causes. If so, the Democrats risk disaffection of their core constituencies.

Both Republicans and Democrats seem to want to keep voters in the dark, holding close the year's best-kept political secret: Although the era of big government is really not over yet—after all, the federal government still accounts for more than a fifth of GDP—the government's relentless growth relative to GDP has been checked. There seems to be little that even a president with the purest of liberal intentions (if that is indeed true of Clinton) can do about it. The evidence is mounting that government policies are constrained more and more by global economic forces rather than domestic political forces.

In the face of this trend, the relative growth of government under Bush was only a blip. It can be partly explained by the sluggish economy, which in turn was partly due to increases in taxes and regulation. (The same combination of factors helps explain Bush's defeat.) It may also be that the "Reagan Revolution" went further than global economic forces required, giving Bush some leeway for expansion. But the continuing worldwide competition for capital has prevented Clinton from building on his predecessor's accomplishment.

Clinton has a strong chance of being re-elected precisely because he has not been able to expand federal involvement in the economy as much as he imagined he could four years ago. His



favorable ratings began to climb just after he lost his struggle to mount a hostile takeover of the country's health care industry—and as federal outlays began to shrink relative to the expanding economy. Conservatives understandably lament the passing of the Reagan era. At the same time, given the actual economic records of the last two administrations, they should be happy that Bill Clinton defeated George Bush. ®

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CONTEMPLATING EVIL

Novelist Dean Koontz on Freud, fraud, and the Great Society

For over two decades, Dean Koontz has been one of the most prolific and popular writers in America. The author of more than two dozen novels, including the recent bestseller *Intensity*, his books have been published in 38 languages and have sold more than 150 million copies. Often pigeonholed as a "horror" writer, Koontz's work defies pat generic labels and deftly blends Gothic, fantastic, tragic, and comic elements into narratives that entertain, terrify, and exhilarate. Whether exploring the boundaries of identity (*Mr. Murder*), the vagaries of intelligence (*Watchers*), or the limits of re-engineering human response (*Strangers*), Koontz challenges his readers to reflect on their own experience, their relationship to the world, and their responsibility to "make" their own lives.

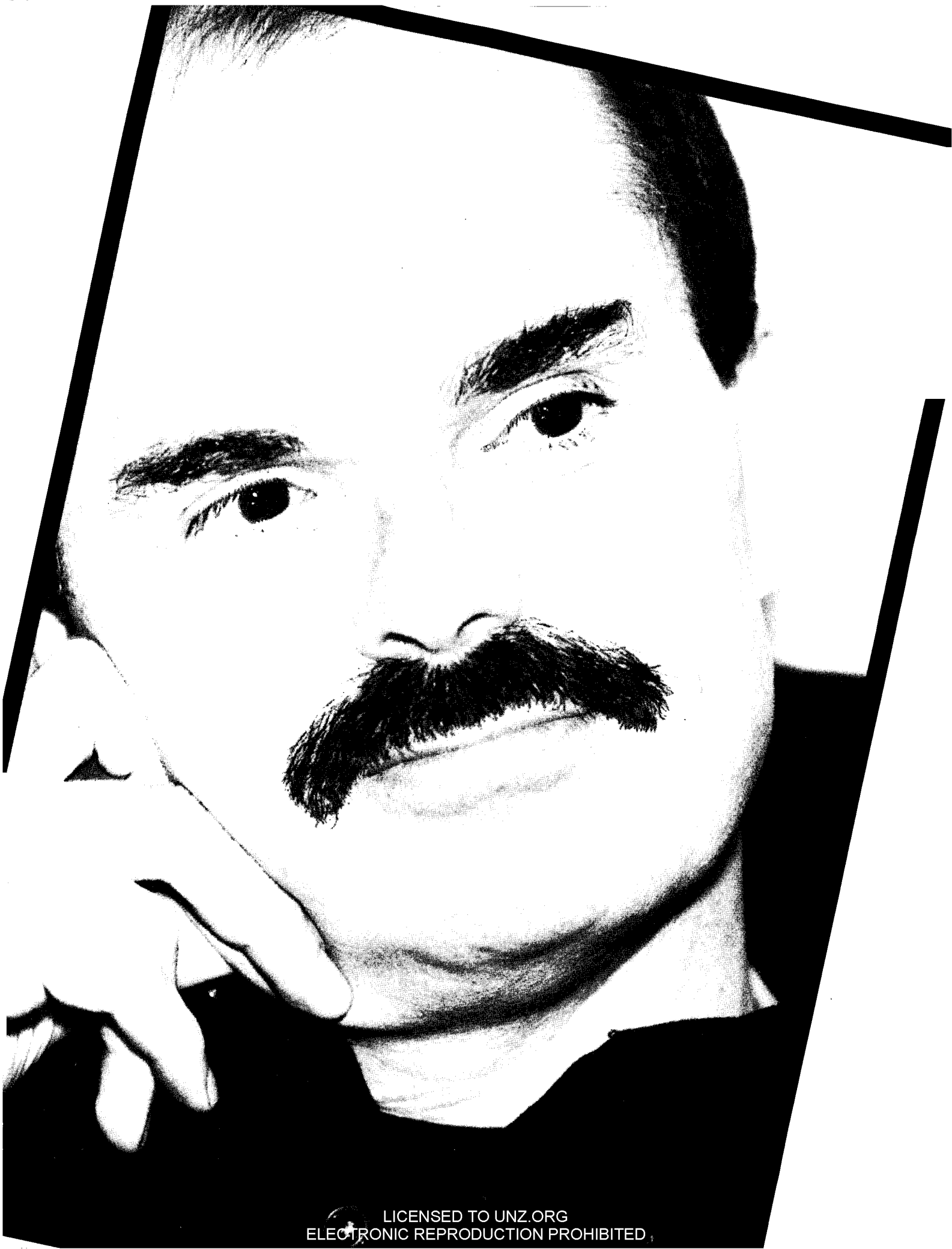
In person, Koontz similarly stresses the need for engagement with ideas and society. An active supporter of a number of charities—and someone who shares "certain affinities with libertarianism"—he is also wary of state action. As a worker in a Great Society poverty program in the late '60s, he saw firsthand how such policies fail to help their intended beneficiaries. As an observer of contemporary America, he has publicly spoken out against governmental overreach in incidents such as Waco and Ruby Ridge.

Koontz affixed an afterword to *Dark Rivers of the Heart* decrying asset forfeiture laws; in 1995, he wrote an eloquent foreword to Alan Bock's book about Randy Weaver, *Ambush at Ruby Ridge*, in which he called himself an "ardent believer in America" and noted, "I do not have much in common with Randy Weaver....[W]e would disagree on most issues; and certainly one of the biggest differences between us would be his apparent belief that the races should live separately and my faith in America as a great equalizer and an agent of understanding....It would never occur to me, however, to shoot Mr. Weaver *solely because of what he believes*....The United States of America has become the brightest beacon for freedom in history expressly because it tolerates diverse opinion to an extent unequaled elsewhere. During the past decade, however, many institutions that traditionally supported the never-ending struggle to maintain freedom of speech have come down squarely on the side of repression and thought control."

Koontz's own life reads like a mythic American success story. He grew up poor in rural Pennsylvania during the '50s and '60s, put himself through

INTERVIEWED BY NICK GILLESPIE AND LISA SNELL

PHOTOS: JONATHAN NOUROK



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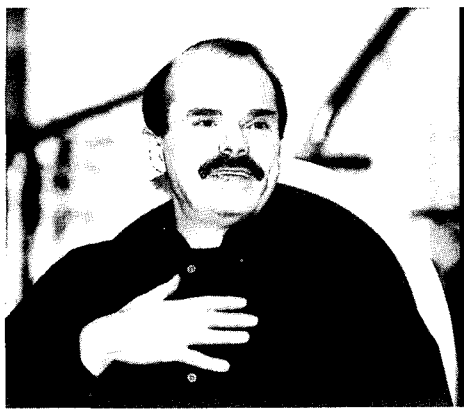
college, and married his high school sweetheart, Gerda, who supported him during his early, lean years as an anonymous writer. Although his books often explore the evil that men do, Koontz is an effervescent, lively conversationalist, quick with a joke and a witty riposte. And although he deals in serious ideas, he refuses to take himself too seriously. REASON Senior Editor Nick Gillespie and Reason Foundation assistant policy analyst Lisa Snell met with Koontz in his Southern California home earlier this year.

Reason: Your novels are set in a landscape of violence, horror, and often unmitigated evil. What's the attraction of that world to readers?

Dean Koontz: There are a number of factors. I think the biggest one is that we are coming out of a century that was taught that one way of looking at the world, that one form of behavior, is as valid as another. If behavior becomes sociopathic or destroys other people, or if the person is a murderer or whatever, there's a sense of, "Well, we can understand that." The idea of true evil has been blown away. In "enlightened" thought, there is no true evil. But people gravitate to fiction that says there is true evil, that there is a way to live that is good, and that there is a way to live that is bad. And that these are moral choices, and if you make the wrong moral choice often enough, you're evil. They gravitate to that because they see that's really the way the world works. In your daily life, you run into people who are bastards and will always do the wrong thing simply because they want to. And you will meet people who will go out of their way to be decent people. In their daily experience of life, [readers] see that there is good and evil, and that's the way the world works. There's an inner need to see what they really know on a gut level about life reflected in the entertainment they view or the literature they read.



"Moral behavior is an evolutionary choice. If doing the right thing wasn't a survival tool, then none of us would do the right, decent thing and there would be no civilization."

Reason: In your novels, good tends to triumph—at least until the next book begins. Do readers respond to that as wish fulfillment, since they know that in the real world, good doesn't always win?

Koontz: I'm no Pollyanna, but I think good does usually win. In the short term, evil probably triumphs more often than good. Long term, though, I've seen too many instances where people can get a lot of short-term advantage out of vile behavior, but don't end up well later on in life. I see it again and again—so much that it makes sense to say that moral behavior is an evolutionary choice. If doing the right thing wasn't a survival tool, then none of us would do the right, decent thing and there would be no civilization. Civilization rests on the fact that most people do the right thing most of the time.

People always point to the individual who is the exception—they point to the individual who picks up a machine gun and kills 30 people—and they say *that's* why we need government control. Within hours of the Oklahoma City bombing, the president of the United States was saying perhaps we have too much freedom. But the reality is that the mass of society, the vast majority of people, are responsible people. I really believe that. I *like* people. I think that if you don't subvert people's natural inclinations to take care of themselves and to plan their own lives, they will do so successfully. But you can subvert them, you can make them dependent.

Reason: You grew up under strained circumstances—an alcoholic, abusive father, poverty, rootlessness. Yet you've said, "One thing that's central to my work is that we are not necessarily doomed to lives of fear and neuroses because of terrors we experienced as children."

Koontz: Vladimir Nabokov said the two great evils of the 20th century were Marx and Freud. He was absolutely correct. Freud has saturated our culture. People operate on Freudian theory in almost everything they do and they're completely unaware of it. I'm really sensitive to how Freudian theory seized the day, because as a novelist I once wrote characters with complete Freudian backgrounds. The basic assumption of Freud is that none of us is responsible for what we are: What we are is a consequence of what our parents did to us, what our culture did to us, what society did to us, the injustices we've suffered. So, in essence, we're victims.

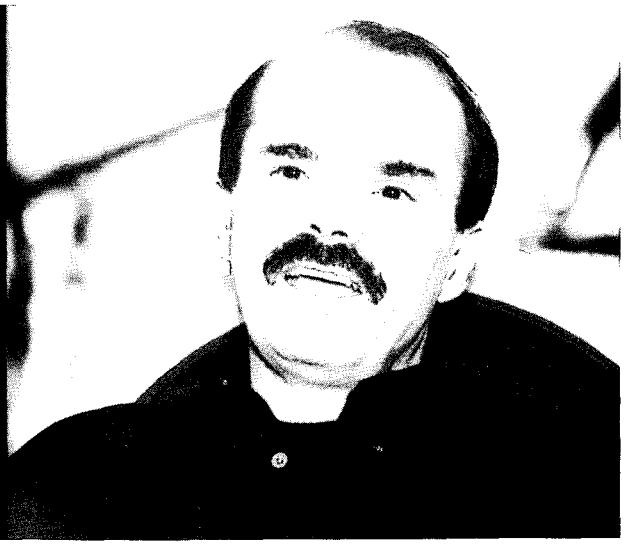
What we do as a society is seek simple answers. Freudianism is a simple answer: If what everybody does is simply a result of what was done to them as a child by their parents, or their culture, then they're not really responsible. All we have to do is put them through a 12-step program and they'll cease being a serial killer or whatever. That's so grossly simplistic. And yet it has dominated the thinking of our century, especially our legal system.

That's why you get the Menendez defense. That's why prison sentences have become so weak. That's why you can get a 15-year sentence for murdering a 12-year-old girl and get out in five years. Freudianism assumes that the inner mind is like a wind-up toy, that we can predict everything that's going to happen. The character in my book *Intensity* is based on Ed Kemper, who killed his grandparents when he was 14 and was released at 21 when psychiatrists said he was no longer a threat to society. He went on to kill nine more people.

One day I realized my whole life has taught me Freudianism is nonsense. My father was a sociopath and an alcoholic, and I had a terrible childhood. I didn't grow up to be a criminal or have any of the problems that I'm supposed to have. Look at Ted Bundy, who had a normal childhood but grew up to be what he was. I made a conscious decision to stop writing Freudian char-

acters because I realized that the best characters I've ever read are in Dickens, and he never heard of Freud. I've gotten some reviews where people say my characters aren't deep enough because we don't know why they are the way they are. One of my editors once said, "We don't know what's in this guy's past that made him what he is now." He wanted me to go back and show how his parents abused him. Trite Freudian stuff. In Dickens, the idea was that character is what you *do*, and that's what defines you. I think that makes sense. I believe in free will and individual choice and that we make our own lives as we go along.

"People will argue with you that welfare recipients don't have kids just to collect payment. Yes, they do. I've been in that system and I've watched it."



Reason: So how did you make your life?

Koontz: There's sometimes a weird benefit to having an alcoholic, violent father (later in life, he was diagnosed as a sociopath). He really motivated me in that I never wanted to be anything like him. When I was a kid, I thought all families were like mine because I had no other examples. When I was old enough to start reading books, I learned that it wasn't so. I read about other families, and I remember reading a book in which a character like my father was the villain as a result of his actions. Suddenly it dawned on me that mine wasn't an ordinary father. My mother was quite the opposite of my father. I could see goodness coming out of one person and evil out of another person, and learned to identify what happens to you as being your responsibility and being a result of the people you interact with.

I graduated high school in 1963, right before the whole Great Society really began. There weren't a lot of social programs, and I was driven to work a couple of jobs when I was in high school and college—the goal was to earn money to get through college somehow. And to achieve and get ahead. What I saw by the time I graduated college was that there was already beginning to be the idea that the system will provide for you and that you don't need to do anything. I think this is the worst thing that can be done to anyone. I believe we have to have some degree of safety net. But when the safety net becomes a steel mesh that you're never going to fall through, then there's almost no motivation for a lot of people.

I think that's a criminal thing to do to people. It takes away their chance at being something in life. I really believe that everyone has a talent, ability, or skill that he can mine to support himself and to succeed in life. I'm lucky to have a talent and an ability that allowed me to succeed at a very high level. But I also understand how that potential is stolen from you by giving you too many options not to work. If I had that option as a kid, if I hadn't seen the need to work hard and get ahead and not be my father, I probably would have taken it. As a kid, sloth might have been so ingrained in me that by the time I got old enough to focus on the talent, I wouldn't have cared.

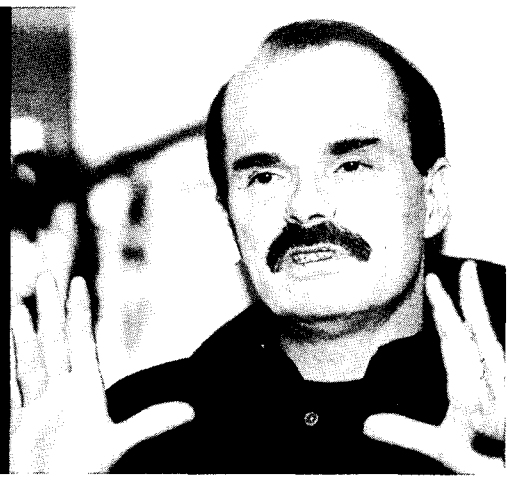
Reason: You worked in a Great Society program. How did that affect you?

Koontz: If you've got your eyes open, actually working in one of these programs is an astonishing education. I was in Title III of the Appalachian Poverty Program, which was administered through local school districts. My first job was in Saxton, Pennsylvania, a former coal mining town where the mines were all played out. The people don't leave, they stay there. I was supposed to be a combination counselor and tutor. All the teachers in the high school were supposed to choose the students in their classes who came from the deepest poverty but who had great potential. Those kids were supposed to come to me—kids who without one-on-one tutoring and one-on-one counseling were going to have a hard time breaking out of their situation.

It sounded very noble and wonderful. I'm slow sometimes, and it didn't occur to me that this position began in September but I was starting in November. So I was coming into a job two months after it should have been filled. It never crossed my mind why that should be. As we went into the faculty lounge, the principal introduced me to the teachers, and the first guy said, "I think it really takes guts to do what you're doing." Guts? I thought. But that was the pattern through every introduction: "It takes a lot of courage to come to this job."

Then I discovered that the fellow before me had been run off the road by the kids he was supposedly trying to help. They had beat him up and put him in the hospital. *That's* why the job was open. What I discovered very quickly was that instead of identifying the kids who had real potential and could have benefited from the program, the teachers took their worst discipline problems and got them out of the classroom by giving them to me. A number of these kids had police records, reform school records; they were in deep trouble. Basically, a lot of these kids just wouldn't benefit from a lot of instruction. These kids were all out of control. I'm not a big guy, and some of these kids *were* big guys. But even though these kids were never going to be scientists and doctors, the first thing I discovered was that if you imposed and expected discipline, they liked it. They wanted it and respected it.

But the program was subverted by the people administering



"Here's where I disagree with doctrinaire libertarians: I think we need a pretty strong defense. I think the world is full of evil people."

it. That's just one way these programs can go wrong. At the end of that year, I also had noticed that the money for the poverty program was not coming to me at all. To get $9.00 worth of books, I once had to fight six weeks. Every dollar we tried to get was disappearing somewhere. It was going to building new gyms, which had nothing to do with helping these kids. And I became absolutely convinced that some of it was going into pockets somewhere. There just was no other way to explain how the money fell through the program and didn't help anybody.

At the end of the year, I realized there was no way these kids were ever going to be helped by this program. As committed as I was to trying to do what I could for them, there was nothing I could do because the program operated against me.

Worse than that, these kids went home every night. It was at home where dependency was inculcated in them. Many of them were living in terrible circumstances—living on screened porches in winter, that sort of thing. I had a kid who was one of 12 or 14 children who was just waiting till he was old enough to get out of school without his parents' permission. So he stood around all day or sat all day and did nothing. He didn't want to be in school. His parents made him stay in school because as long as he was there, they received payment for him, as did the school. And that was why they had all these kids. It's a cliché when people will argue with you that welfare recipients don't have kids just to collect payment. Yes, they do. I've been in that system and I've watched it. These kids got nothing from their parents.

The only thing you could do to help these kids—it sounds fascistic—was to take them away from their parents and put them into an orphanage. Newt Gingrich got in deep trouble for saying the same thing. We know there are a lot of horrors that can take place in a public institution. But each of these families has become a public institution where the public is paying to support the whole system. There is no control over what happens to these kids. These kids are simply product. They're produced to make payments and nobody cares about them. The system does not and the parents don't. It's horrifying.

Reason: You've written that "Humanity's hopeless pursuit of utopia through government beneficence leads only to grief, misery, and blood." Around 1971, your politics changed and, by your own admission, you remained a liberal on civil rights issues while becoming a conservative on defense and a "semi-libertarian" on all others.

Koontz: I began to evolve (laughs). Here's where I disagree with doctrinaire libertarians: I think we need a pretty strong defense. I think the world is full of evil people. I think in some ways we're in more danger now than before. I'd love to see us with a missile defense. We're going to see countries like North Korea with missiles that can make it across the Pacific. And since I live on this side of the country, I'm particularly worried by that (laughs). But in a general sense, I think we'll always need a strong defense.

Reason: What are the other disagreements with doctrinaire libertarians?

Koontz: Although it's completely out of control now, I think the government has some role in recognizing that certain civil rights are like contractual rights. I think society has a contract with its minorities to make sure that they are not discriminated against. That's a contract the government should enforce the same way it would enforce, say, a movie deal or some other contract.

Reason: Specifically, what does that mean? Do you favor affirmative action programs?

Koontz: No. That's what I mean when I say things are out of control. I support the civil rights legislation of the early 1960s. I think that if you're a citizen of the country, there's a basic contract that says you should have the same rights as anyone else. I think to some extent—and here's where we start having to draw those lines—that certain private places like restaurants are public places. If you advertise and encourage the public to come, then I don't think it's just to refuse service to someone based on race or religion. I think it's perfectly just to refuse service to anyone based on behavior, but not based on race or religion.

The problem is that when government is given enough authority in a particular area to enforce the law, it starts expanding its authority. How we prevent that is a battle that goes on forever. It'll never stop.

Reason: Governmental abuse of power is a recurring theme for you. In *Dark Rivers of the Heart*, you included an afterword highly critical of asset forfeiture laws, and you wrote an introduction to *Ambush at Ruby Ridge*, Alan Bock's book about Randy Weaver.

Koontz: Over the past decade, we've developed police agencies that are paramilitary. We've never had that in this country. And now we're starting to have a lot of trouble with them—incidents like Ruby Ridge and Waco. That's going to get worse before it gets better.

When I wrote *Dark Rivers*, Waco had been accepted. Nobody was talking about Ruby Ridge. Nobody even knew what it was. It was weird that after my book came out, that these two cases came back up. They still haven't been resolved in any way that makes sense. Some of the agents involved in Ruby Ridge got commendations.

Reason: Have you taken much heat for your public stances on these sorts of issues?

Koontz: Some readers assume that I removed the afterword to *Dark Rivers* from the paperback edition because I couldn't

take the heat. But circumstances had changed: The afterword sounded dated because some of the things it called for—like Congress passing a law making itself subject to the laws it passes for the rest of us—happened. I took it out rather than rewriting it. But the book says what it says. I didn't want a lot of people to read the book and think it was all fiction. I thought it was important that people who read it saw asset forfeiture laws dramatized and realized that this was really the way they work.

A couple of times when I've been on radio talk shows, callers essentially wanted to blame me for the Oklahoma City bombing. *The New York Times* called me right after the bombing. They wanted to know if I thought that writing books like this would give people these kind of ideas. I said, "Have you read the book? Because if you read the book, no, it's impossible." This again is simplistic thinking. Because people see violence on the movie screen, they're not going to go out and hold up a liquor store and kill somebody. It really doesn't correlate. It would be nice to think like this—how easy to solve all the problems! But it doesn't work that way.

Reason: You say that people don't get ideas from the media, but you yourself have said you realized that your life didn't have to be the way it was partly by reading books. You throw in an overtly political afterword to your novels—doesn't that have an effect on your readers?

Koontz: We're talking about two different things. Politicians or people who are against sex in movies or violence in movies—there's people who are against *religion* being shown in these things—never make any kind of differentiations. When the subject is violence, say, they never differentiate how the violence is portrayed. In my books, I never portray violence as a reasonable solution to a problem. If the lead characters in the story are driven to it, it's at the extreme end of their experience. In *Dark Rivers of the Heart*, I even make the statement that guns are less important than knowledge—although one of the characters says that sometimes guns are the only way. They don't kill people in the story until the very end, when they must. Generally, it's the bad guys who have to go. So it's how it's portrayed: Does it have a moral context?

To some extent, the action always takes place inside the reader's head, and from that viewpoint, no matter how innocuous something is, somebody can always take it the wrong way. I have to admit that when I watch a movie in which there is no moral context for the violence—there's the cop who is just going to start blowing people away as his first choice of how to deal with the situation—I find that offensive. I think that's potentially damaging to society. I don't think anybody should be restricted from showing that. But kids should be raised and educated in a way that gives them the skills necessary to judge these things.

Reason: Although your books often have a political dimension, you've said that you pay just enough attention to know when the next bat is going to hit you in the head.

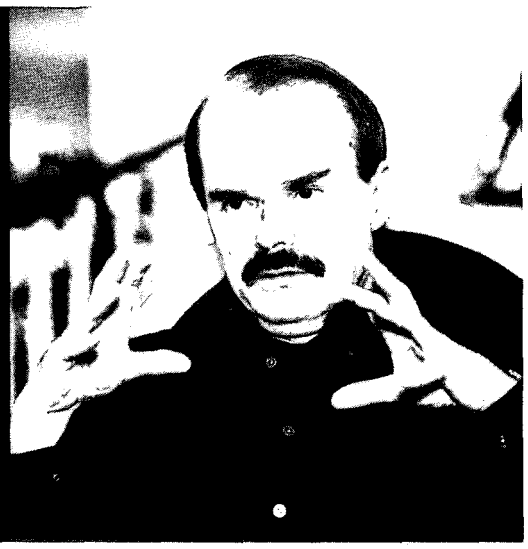
Koontz: I try not to spend too much time on partisan politics. Life's too short for that. I don't really believe that there have been many human problems solved by politics. If you really look at any issue, historically, what was done to relieve one condition created a worse one. So if I don't really believe that something is going to have a profound effect on any of us, I try to ignore it.

Reason: Do you vote?

Koontz: I keep saying, "Damn it, I'm not going to vote!" (laughs). But then somehow or another, there's always a couple of things that you want to go and vote for. Somebody asked me about the current choice we're being given in the presidential election. I said, Well, it's like two of the scariest movies I can imagine. The first is a remake of *Whatever Happened to Baby Jane?* with Bob Dole in the Bette Davis role—we can see him serving the rat on the silver tray. Even scarier is Bill Clinton, who vacillates between this airheaded, feel-good, Bubba sort of character and a predatory, immoral sleazeball. The airheaded, sort of sweet image he projects is a Tom Hanks role. The other one is like an Anthony Hopkins role. So you have *Hannibal Gump*, starring Bill Clinton. With a choice like this...well, I probably will vote.

In 1992, I went into that booth saying I might not vote for president. Finally, I pulled the lever for Bush. It was one of the hardest things I've ever done. There was no passion. It was being stuck with the least of three evils. I've not seen in my lifetime any politician who is a heroic figure. The manipulation that all politicians use on one level or another is so transparent that I've never been able to define them as heroic figures.

"If 70 percent of the public believes nothing the president says, that's actually pretty healthy."



You know, every time a poll comes out that shows the public has so little faith in this politician or that party, there's a hue and cry. But I actually find that hugely healthy. If 70 percent of the public believes nothing the president says—and an even higher number for Congress and the press—that's actually pretty healthy. It means people will think for themselves, and that's the way it should be. A politician's goal is always to manipulate public debate. I think there are some politicians with higher goals. But all of them get corrupted by power, even if they're not putting their hand in the cookie jar. ®

box of dreams

How a too-good-to-be-true tool fooled drug warriors.

By Brian Doherty

Wade Quattlebaum had a dream, and he wanted to tell the world. Even better—and all the more American—he wanted to *sell* the world. He had built a better mousetrap—better than a better mousetrap, really. Quattlebaum went beyond doing something *better* to doing something that couldn't be done *at all* without his magic widget. He had designed a box that could find things—somehow. He wouldn't tell you, me, or *anybody*, not even the U.S. Patent Office, exactly how.

It looked like just a plastic cellular phone, about 4 inches long, with a chrome antenna loosely attached. If you walked around, looking for something, the antenna was supposed to pivot around and point in the direction of what you were looking for. It was sold as a golf ball finder to begin with. But then Quattlebaum discovered further benefits and further possibilities for his gadget.

With the insertion of the right preprogrammed "frequency chip," Quattlebaum claimed, the device could find most anything—drugs, guns, even missing persons. The law enforcement benefits seemed obvious—not just to him, but to cops, school board officials, even U.S. attorneys around the country.

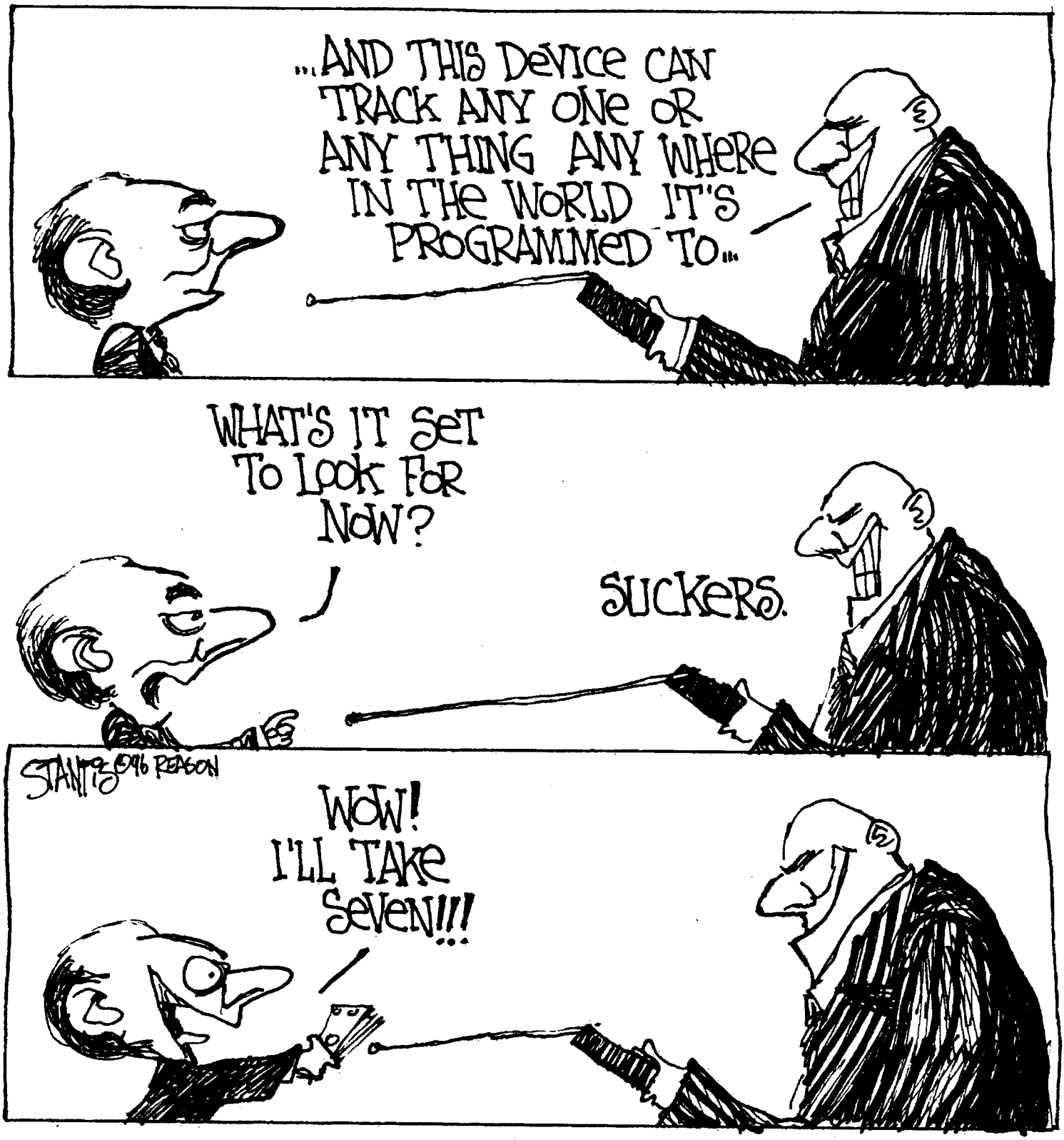
He called his little magic box the Quadro Tracker, and it was a small-business success story that should make any hometown boy, high school dropout, and ex-car salesman from Harleyville, South Carolina, proud. Quattlebaum claimed sales of at least 1,000 Quadro Trackers, at prices ranging from $400 to $8,000—the cost rising the more frequency chips you bought. He had distributors across the country helping get his helpful product into the hands of customers. A fine customer base it was, too: mostly local school boards and police departments.

It might have been happily-ever-after time for Wade, too, if it hadn't been for that meddling FBI. Their entrance on the scene as an unexpected spoiler turned the story of Quattlebaum and his amazing Quadro Tracker into even more of an archetypal modern American dream/nightmare—one that casts aspersions on the good sense of those embroiled in the front line of the war on drugs.

Quattlebaum doesn't seem to want to tell the world much anymore. The phone just rings and rings, hollowly and eternally, at the headquarters of his besieged company, the Quadro Corporation of Harleyville, South Carolina. Directory assistance in Harleyville has no listing for him. His lawyer won't tell you how to get in touch with him. His vice president, Ray Fisk, doesn't return repeated phone calls.

Surely, Quattlebaum should have expected trouble—selling a device like this to law enforcement officers. He should have known someone might take a jaundiced look, maybe decide it was too good to be true. That's exactly what happened, and that's exactly the argument that Wade's lawyer uses to defend his sincerity.

Tim Kulp, a lawyer out of Charleston, says he knows fraud—the unlovely accusation that Federal District Judge Thad Heartfield of the eastern district of Texas heaped upon the head of Wade and the whole Quadro Corp. with his April injunction against the further sale or promotion of the Quadro Tracker. And, says Kulp, his client is no fraud: "I was in the FBI. I've dealt with these sort of boiler room fraud cases. And I tell you, those sorts


...AND THIS DEVICE CAN TRACK ANY ONE OR ANY THING ANY WHERE IN THE WORLD IT'S PROGRAMMED TO...
WHAT'S IT SET TO LOOK FOR NOW?
SUCKERS.
STANTIS ©96 REASON
WOW! I'LL TAKE SEVEN!!!

SCOTT STANTIS

don't try to sell things to *cops*. They sell them to old grandmothers, retired people down in Florida."

Still, facts are facts. And when FBI agent Ron Kelly, stationed in Beaumont, Texas, got savvied by one of his boys on the Jefferson County Narcotics Task Force in nearby Louisiana about this miracle device, which was sweeping the imaginations of various cops and school board officials in 1995, he thought it sounded screwy. Later on, big-shot scientists at the Sandia National Laboratories backed him up, but at first he just decided he wanted to get a look inside the magic box. So he took it to the nearest place that could help: He ran it through the courthouse X-ray machine.

"It was clearly hollow," he recalls with almost a chuckle. "It didn't take a lot of effort on *our* part to determine it was phony."

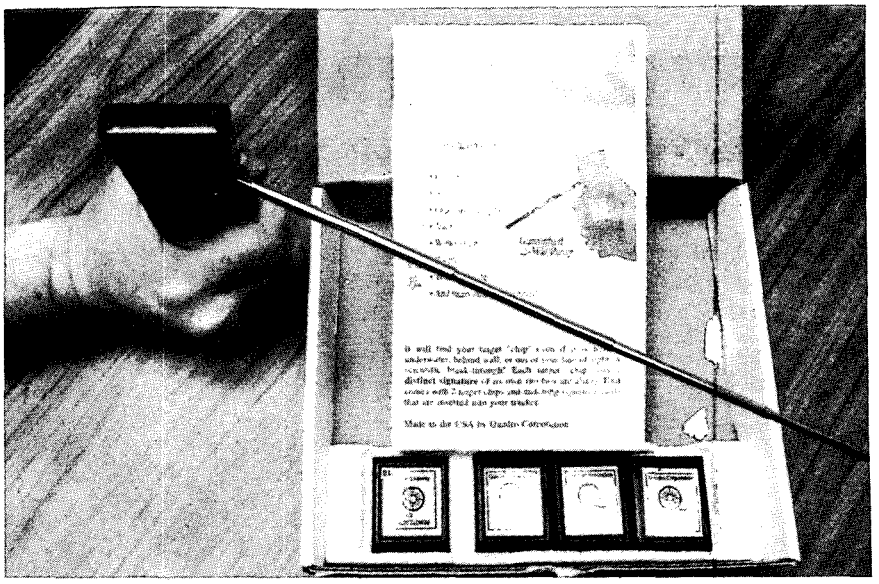
At first Kelly thought they might just be dealing with a local bunco artist; soon he realized the Quadro deal was big, bad, and nationwide. The FBI boys in Beaumont brought it to the attention of the U.S. Attorney's Office there, and they told it to the judge: Judge Heartfield, who decided to put the kibosh on it. Heartfield permanently enjoined the Quadro Corp. and its staff from, and pardon the legalese, "using the United States mails or private commercial interstate carriers, or causing others acting on their behalf to use the United States mails or private interstate carriers, to solicit customers or entities, promote, sell, transfer, or demonstrate the Quadro Tracker...and devices of a similar design marketed under a different name." The same went for using telephone or other wire communications to do the same.

That's not the end of Quadro's troubles. On August 21, a federal grand jury in Beaumont indicted Quattlebaum, the company, its officers, and a Quadro distributor in Texas on four counts of mail fraud and conspiracy to commit mail fraud. Each defendant is facing a possible five years in prison and a $250,000 fine per count.

All this Quadro Tracker business sounds too silly to be true, and it sounds worse yet when you read some of the Quadro Corp.'s promotional materials. A brochure selling the device to a school swears: "The tracker will also locate specific drugs *in solution*. This means that even a person who had been using drugs will have traces in their bodily fluids, blood, etc. Thus the Tracker will indicate people who are using drugs, as well as those who are merely carrying it. Therefore extreme caution should be taken if searching a person, or making accusations, as they may, indeed, not be carrying drugs on them!"

Philosophy-of-science mavens may detect a hint of what Karl Popper calls "unfalsifiability" in the above claim—and that means bad science, in Popper's eyes. But people buying this device seem to have more problems with science than merely failing to grasp Popper's philosophy of demarcation.

And that's not all, as they say on TV: "Quadro units have been designed to locate people from a photograph, as well as from a fingerprint. Thus missing prisoners, or escaped prisoners can be located with ease. The machine will identify an individual, no matter what disguise or surgery is undertaken. It has been tested over a distance of 500 miles, and *will* track, we believe, at any distance."



A sales brochure claims the Quadro Tracker can "locate specific drugs *in solution*....Thus the Tracker will indicate people who are using drugs as well as those who are merely carrying it."

Well, it's possible, isn't it? It's *possible*! Isn't anything possible in this topsy-turvy world of ours?

Maybe in the topsy-turvy world of an ultimately futile war against drugs, any old flimsy straw looks like a mighty log with which to build. Certainly, school officials who bought, or thought about buying, Quadro were really convinced it worked. Never mind that the "frequency chips" that had to be loaded in the Quadro (and cost hundreds of dollars extra per chip), which were said to be "oscillated by static electricity produced by the body inhaling and exhaling gases into and out of the lung cavity," were merely small photographic images of the search target, sealed in plastic.

But the Quadro boys were good salesmen. "It was a very exciting demonstration," admits Wolfgang Halbig. "I was excited." Halbig, director of student discipline for Seminole County in Florida, only narrowly averted wasting the school board's money on the device, through magical intervention of a sort.

"We were all sitting in the school board auditorium," Halbig remembers. He had invited Quattlebaum and the former police chief of Harleyville down to demonstrate the tracker after an enticing phone call from a Florida Quadro distributor, who also happened to be the mayor of the small Florida town of Lake Helen in Volusia County.

"They walk in with it in hand. You see the antenna swing. It points to a sign. You move the sign, there's a bullet. They had a gunpowder chip in there. We were finding bullets, we were finding marijuana. I saw the big picture: A device that could serve as a deterrent! Just let kids know we have a tool that can find those

RICH SUGG/THE KANSAS CITY STAR

substances...." Halbig trails off wistfully. A dream too fine to come true. But Halbig got a hint of how it *might* have worked.

While using a Quadro on loan before purchase, he wandered around middle school hallways and parking lots, letting the antenna swing where it would. It reacted to a car driving into the school parking lot. Halbig is sensible about the subject—now, at least.

"I used to be a customs inspector. We tried to be rational. We knew the profile. Why would Quadro react to one bunch of kids and not to another? You see a car drive in with a bunch of kids. Windows closed. They're bouncing their heads. Next thing you know, you get them to admit, 'Hey, I was smoking marijuana this morning.'"

The demonstration, and even some experience, made Halbig a believer. It took a magician to convince him that the Quadro Tracker's magic was just an illusion. "Just as I was ready to make a commitment to buy one, I got a call from this fellow named James Randi. He told me, 'Before you buy it, can I come up and show you a test?' I checked the guy out on the Internet."

Thus Halbig learned about James "the Amazing" Randi, professional magician and debunker extraordinaire. Through the generosity of some of his supporters, Randi has a standing offer to pay $624,000 to anyone who can conclusively demonstrate to his satisfaction any method or device that works by supernatural or extraphysical means. As a professional fakir, Randi is not easily fooled by others. Despite the plethora of the supposedly mystical in the world, no one has yet won Randi's booty.

Halbig let Randi supervise a double-blind test of the tracker. It didn't work. Later, Halbig began to wonder: Did the magician fool him? He tested it again, doing his own single-blind test in which he placed a bag of pot on a desk, and then put in different frequency chips without himself knowing what chip he was using. The Tracker failed. He similarly tested a colleague who had gone through extensive personal training in Harleyville with Quattlebaum. He failed too. The Quadro Tracker had lost a customer—a $49,000 customer, since Halbig had planned to buy one for every school in his district.

Soon, Quadro was losing more than that. In addition to the

"Most of them get very angry at the suggestion they were fooled, and they probably never will change their mind," he says. "People have such faith in their own perception—they think what they see and hear necessarily represents the real world, but it's a very filtered view. That's why magicians are so successful. The spectator chooses to believe they are seeing what they think they are seeing."

Randi may be understanding, but the FBI's Kelly is positively peeved at people's stupidity about the Tracker—especially in schools: "School districts using them to search lockers—that's just outrageous. All they had to do was talk to their physics teacher, and hopefully the teacher would tell them it's a bogus find. If not, get a new teacher."

Kelly had to deal with many perplexed law officers after the FBI spread word the device was a no-go. "People who have been conned have a hard time coming to grips with it," he says. "Police officers are supposed to be skeptical. That wand will wobble whichever way—gravity, wind, the way you move your hand, will all move it."

Any successes attributed to the device—and plenty of buyers insist the device *did* find things—Randi can explain: "They know where it is, so they incline it that way." That knowledge need not be exact—the intuitive cop's or guardian's suspicions can be enough.

Beyond the madnesses that a war on drugs can lead to, the sordid saga raises questions of proper government reaction to this sort of fraud—which in most cases is self-fraud. That a lone judge can ban a device nationally on his own say-so might seem alarming. After all, where was the harm? One potential problem was the use of Quadro evidence as probable cause for a search, which alarmed everyone from the U.S. attorneys on the case to the American Civil Liberties Union. But at the Quadro trial, the government produced no evidence the device had ever been used that way.

Kulp, the Quadro lawyer, thinks the government overreacted. In fact, he thinks they had no business getting involved at all.

"Where's the beef? If it's not inherently dangerous, and if pur-

percent. But the FBI comes in with search warrants and seizes records anyway," says Kulp.

"One of the things the government didn't try to prove was that anyone was duped. We had satisfied customers ranging from narcotics agents in New York to sheriff's deputies in Lubbock, Texas.

"If we legally have to prove *how* it works, then the whole psychic phone network is absolute wire fraud." (Psychic phone networks do, however, include disclaimers saying their services are for entertainment purposes only.)

To avoid the injunction, Quadro even offered to attach with all sales literature and the Tracker itself a notice with the money-back guarantee which would read, in part: "Some scientists believe...no known scientific principals [sic] could be responsible for Quadro Corporation products operating as we believe they do. The principals [sic] underlying the operation of Quadro Corporation products are not generally accepted by the scientific community. We invite you to examine Quadro Corporation products for yourself, educate yourself in the proper use and limitations of these products and make up your own mind."

Numerous officials expressed regret that the FBI publicly blew the whistle on the device, ruining the possible deterrent effect on superstitious crooks, cowed by weird science into fearing that there would be no concealing their contraband from the molecular-frequency detectors of the law.

Sounds like a reasonable, liberal compromise between the free play of products and ideas and the government's desire to prevent fraud, but Judge Heartfield said no. The government's tactics when it gets peeved at a product can be extreme, as in the 1950s, when scientific papers of the psychiatrist Wilhelm Reich were burned by the government in the course of stopping the sale of a device he sold that it judged fraudulent.

In the Quadro case, the defense had called to the stand Guy Womack, a solid citizen, an assistant U.S. attorney in the southern district of Texas, and a Quadro distributor. The day he was to testify, the prosecution informed Womack that *he* was under investigation for his role as a Quadro salesman. On the stand, instead of singing the praises of the product, Womack took the Fifth 42 times and clammed up.

"That's not the way they're supposed to do business," says Womack, who four months later is still an assistant U.S. attorney and has not been officially charged with anything. Womack laments that Judge Heartfield couldn't hear from more satisfied users, and insists that the device has worked for him under circumstances where he had neither knowledge nor even any traditional context clues to go on—where there is no explanation other than that the Quadro Tracker can do what it claims. "The things I found with the Quadro Tracker, I never would have dreamed of looking there without it.

"I guess I'm not skeptical enough. Living in Houston, I'm hearing about new science discoveries almost every week, from NASA to the Texas Medical Center. So it wasn't hard for me to believe this could work if it appears to work."

The government is charging Quadro and its salesmen with fraud. That implies a culpable attempt to fool people. Surely, you'd think that the Quadro guys *knew* that the device was useless. That's not the sort of thing people involved in criminal investigations admit, even if they will talk to you. Halbig certainly has suspicions that the Quadro people had no real faith in their device: In their instructions, they tell people not to reveal that Quadro was the key to finding any guns or drugs that might be found. "Wouldn't you want Quadro to get the credit?" Halbig wonders. "You need a history of success to get courts to validate it."

But there seems to be no detectable stream of dissatisfied customers. The U.S. Attorney's Office can't name any. Angus Williams of the Polk County School District in Florida tells me he got a refund, no problem. Other school board officials haven't even tried to get a refund. Womack, the former distributor, says no one has asked him for their money back. Kulp claims Quadro refunded $35,000 to a disgruntled Texas distributor. Quadro may have made a lot of money off the deal, but without upsetting too many people. Numerous officials expressed regret that the FBI publicly blew the whistle on the device, ruining the possible deterrent effect on superstitious crooks, cowed by weird science into fearing that there would be no concealing their contraband from the molecular-frequency detectors of the law.

The Amazing Randi, sworn enemy of all metaphysical fraud, is strangely more charitable in his dissection of possible motive. As with all devices working on the dowsing principle, he says, it's very easy to fool yourself that the Quadro Tracker *is* working.

"They could start out thinking it works, test it and find it doesn't make sense, and then decide that there must be some sort of unknown principle of science or divine influence. They don't know why it worked in the first place, and then they've invested their money and reputations in it," he says.

"I got an amusing letter from the Quadro people in response to my $624,000 challenge, which they wouldn't take. That's as stupid as you can get, not trying for that much money just to do something you claim you do every day. But they said, 'We may call upon your magical powers to get us out of prison.'

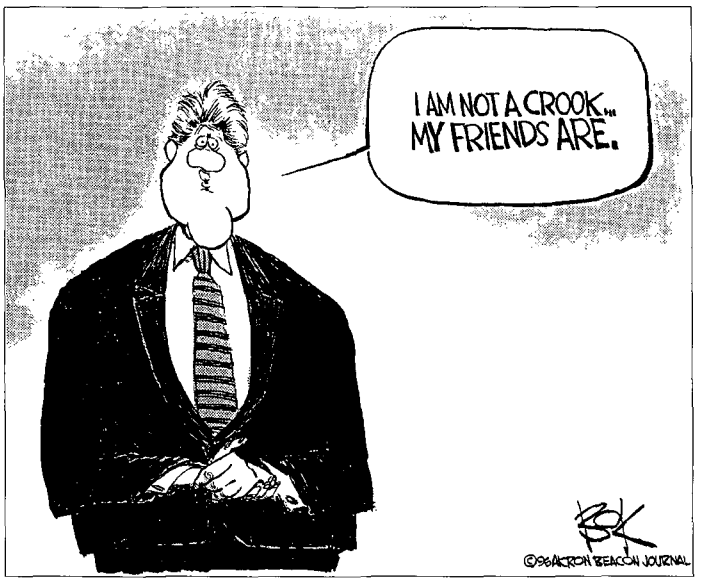
"They may need me yet." ℞

Brian Doherty (bmdoherty@aol.com) is assistant editor of REASON.

Hail to the Crook?

By Gary Alan Fine

Clinton, Harding, and the politics of reputation



VOTERS THIS YEAR have been presented with a presidential choice based largely on character: This is the season of the politics of reputation. For evidence, one need only examine the summer's best-seller lists: Riding high was *Unlimited Access*, the book by former FBI agent Gary Aldrich that tells, among other tales, the poorly sourced story that the president sneaks out for midnight trysts with sexy celebrities. Other summer books, such as Roger Morris's *Partners in Power*, appeared to deepen the moral indictment of the first family; yet more thick character examinations are due out before the election.

Such front-page furors as the FBI files case, coupled with the issues of Whitewater, Travelgate, and the rest of the Clinton crew's notorious repertory, indicate the role that personality plays in this election. It seems that at the least the Republicans will keep it part of the campaign's atmospherics: They see Bill Clinton's reputation as vulnerable to attack. People do not believe Clinton, claims the GOP; Bob Dole goes so far as to say they would not trust him as their children's babysitter. With 63 percent of respondents to a summer *Wall Street Journal*/NBC News poll saying they were "not confident" of "Bill Clinton's honesty and truthfulness," Republicans have room for attack.

In politics, reputation is the coin of the realm. Even more than the proponent of a set of policies, a politician is a public figure: a man or woman with whom the public develops a meaningful, if mediated, relationship; what sociologists term *parasocial interaction*. Americans feel that they "know" Richard Nixon, Ronald Reagan, or Jimmy Carter. When Michael Dukakis's running mate, Lloyd Bentsen, skewered Dan Quayle by saying that he was no Jack Kennedy—a comparison Quayle had himself invited—the remark was powerful because his audience appreciated the differences in reputation between Kennedy and Quayle.

American politics is structured as a competitive game, so there will always be those who will look for an opening to make their side look good, or to besmirch the opposition. This is so taken for granted that we label it "politics as usual." A president's reputation is at the mercy of both critics and supporters: The two parties jockey with each other in building and destroying reputations.

IN TIME POLITICAL LEADERS DEVELOP—OR accrue—reputations to which both friend and foe have contributed. Bob Dole, for example, is seen as the elderly, disabled, Washington player; the consummate insider who lacks both vision and oratorical power. The president is known as an ethically challenged baby boomer, a gregarious, "compassionate" pol whose policy concerns are grounded in calculations of self-interest. We filter the policy pronouncements of our leaders by what we know of their character.

Yet political reputations, as George Bush can tell us with chagrin, can fluctuate rapidly. While a politician is active, his reputation can be burnished by his actions and the attentions of his friends, or can be smeared by the activities of his cronies. The reputations of Jimmy Carter and Richard Nixon both attest to the fact that even after the sunset of one's political career, virtuous deeds coupled with active public relations can change the public's view—at least in some measure. While professional Nixon haters will never alter their opinion, by the time of his death the formerly disgraced ex-president was given an honorable send-off.

Eventually, after politicians, their agents, and their enemies have left the scene, historians take their turn in solidifying presidential reputations, writing the textbooks that teach students which leaders deserve honor. Historians have great weight in shaping our collective memory. Thus, while President Woodrow Wilson was roundly disliked by the American public at the end of his presidency (the Democrats wanted no part of a third term for Wilson), historians, sympathetic to Wilson's background as an academic historian and his quixotic quest for world peace through the League of Nations, have elevated him into the pantheon of the near-great presidents.

Historians have their biases—most describe themselves as liberals and Demo-

CHIP BOK

crats—leading Republicans and conservatives to suggest that the judgment of history is stacked against them. Indeed, since the realignment of the parties in 1856, Democratic presidents have fared better with historians than Republicans. Of the Republican presidents only Lincoln, Teddy Roosevelt, and Dwight Eisenhower are rated above average in polls of historians. No elected Democrat since the Civil War is rated below average; even Jimmy Carter attains an "average" rating in such polls.

TO UNDERSTAND THE POWER OF REPUTATIONS, consider the president perceived to be America's worst leader. That president, judged by the evaluations of the public and historians, is Warren Gamaliel Harding. Those who savor presidential reputations admire what historian Eric Goldman refers to as the "grandeur" of "the contempt in which his memory is held." Why is Harding thought of so poorly, and what might this say about our collective memory of the former Arkansas governor currently in the White House? How have reputational entrepreneurs transformed Harding into an abject failure?

The standard reading of Warren Harding is that he was an unintelligent man, too trusting of his cronies, too weak as a leader, uncaring about corruption, and too passive for a nation that needed leadership in the years after World War I. Yet this reading, widely accepted today, contrasts mightily with how contemporaries viewed Harding.

At his sudden death in August 1923, Harding was an exceptionally popular chief executive, considered likely to be reelected. He had achieved a string of real accomplishments: creating an open, accessible administration, establishing the Bureau of the Budget, negotiating the first international reduction of armaments at the Washington Naval Conference, sponsoring tax cuts that spurred the economic expansion of the 1920s, supporting the end of economic and political (though not social) racial discrimination, and pressuring the steel industry to end the 12-hour day. Despite the reputation of the administration as scandal-ridden, Harding himself was honest.

But Warren Harding had the misfortune to die at the wrong moment—immediately prior to the exposure of the Teapot Dome scandal—and thus was unable to defend himself against a mob of debunkers. Teapot Dome provides a stark contrast with recent major scandals, such as Irangate or Watergate, or even Filegate. The scandal involved the selling of federal oil leases in the desolate Teapot Dome area of Wyoming without competitive bidding. Former Secretary of the Interior Albert Fall subsequently was convicted of accepting bribes from oilmen—he was the only government official implicated in the scandal—and Harding was unaware of his malfeasance. A few other scandals followed, including discovery of Harding's illegitimate daughter and his White House trysts.

The fragility of Warren Harding's reputation speaks to the dilemmas of William Jefferson Clinton. The parallels between the two are, if imperfect, nevertheless striking.

When the scandal broke in the months after Harding's death, things looked bleak for the Republican Party. Democrats rode the scandal hard, and believed that they would have an easy time in the elections of 1924. However, they had not counted on President Calvin Coolidge's shrewdness. Rather than defending Harding and his associates, Coolidge distanced himself from the controversial figures of the Harding administration. While Harding had the reputation as a clubby politician (part of the "Ohio Gang"), encouraging the public image of a scandal-riddled administration, this charge was implausible when applied to the starchy, upright Coolidge.

None of this helped poor Harding. His erstwhile supporters melted away in the political heat, or were sent packing by Coolidge. Silent Cal himself refused to dedicate the Harding mausoleum in Marion, Ohio, well after the 1924 elections. Harding was at the mercy of those politicians, journalists, and eventually historians, both scholarly and popular, who wished him ill, attempting to use his failure to denigrate the conservative/libertarian policies of the Harding/Coolidge administrations. Even the release of Harding's papers in the 1960s, which led some serious historians to attempt a revision of Harding as a solid leader, has not helped Harding: His reputation remains mired in melodrama and malfeasance. Indeed, many contemporary libertarians and conservatives remain unaware of the achievements of those administrations that more than any others of the 20th century attempted to limit the growth of government, preserving a vigorous private sector and economic growth.

THE FRAGILITY OF WARREN HARDING'S reputation speaks to the dilemmas of William Jefferson Clinton. The parallels between the two are, if imperfect, nevertheless striking. Harding belonged to a regional political machine outside of the national orbit; Clinton, too, was an outsider. Harding was bedeviled by his home-state cronies, facing suicides, scandals, and a general sense of sleaze; that is the Clinton administration in a nutshell. Harding was a glad-hander who liked men and loved women; that is the Clinton persona. Harding's wife was disliked by many and reviled as imperious (if you think Hillary has it bad, read what historians—to say nothing of historically minded gossips—say about Florence Harding); that is the first lady. Harding couldn't stop talking (or, to use Harding's own term, "bloviating"); neither can Clinton. Harding was personally honest, but unable to judge the character of those around him; Clinton's judgment awaits the verdict of historians.

Republican operatives are doing their best to ensure that the public remembers all the ethical challenges that the first fam-

ily has failed. Faced with an opponent who has co-opted many issues traditionally associated with the GOP, they turn to "character." But the balance of Clinton's strengths and faults has yet to be taken; it may be that, for some, even his failings are appealing.

CLINTON DOES HAVE ADVANTAGES THAT Harding lacked: the continued, if anxious, loyalty of his party, the sharp pens of partisan journalists, and links with those academics who will eventually write history. Furthermore, short of being felled by a Big Mac attack, Clinton will be able to defend himself for decades to come, leading the charge to recover and bolster his own reputation (with the help of millions of post–White House federal dollars).

Has the public taken Clinton's somewhat sleazy reputation into account? Will voters be willing to re-elect him despite—or even because of—the entertainment value of the scandals that seem to blossom in Clinton's Rose Garden? Clinton is not quite the "Teflon" president that Ronald Reagan was; sleaze sticks to him. But Clinton has shown a talent for changing the political subject from his own problems to some other issue, and he is presiding at a time of economic prosperity.

He may yet be given a pass because he has charm. Some may even find his character to be endearing: that of a cheery rogue, not an evil crook; and we give our rogues considerable leeway. Faced with a frequently dour Bob Dole, our presidential Tom Sawyer has evident powers of seduction. Future historians will find in him a rich subject, debating whether citizens of a society where excuses were readily available for any malfeasance found it comforting to have a president who had so much in common with many of those he led. ®

Gary Alan Fine (gfine@uga.cc.uga.edu), a professor of sociology at the University of Georgia, is researching "difficult reputations," including those of Benedict Arnold, Warren Harding, Henry Ford, John Brown, and Joseph McCarthy.

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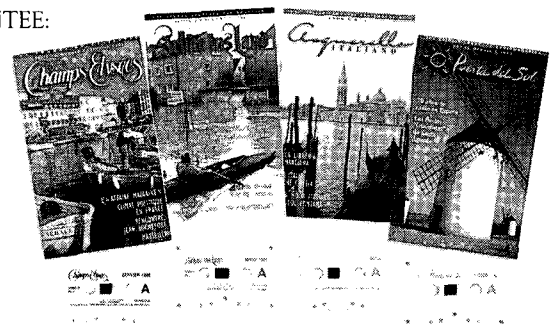

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Independents' Day

By Jesse Walker

New technology helps filmmakers go beyond Hollywood.

FROM TIME TO TIME, HOLLYWOOD will "discover" one or another segment of American society: middle Americans, college-town bohemians, gays, immigrants, blue-collar workers, young professionals. Yet what finally erupts on screen usually conforms more closely to familiar Hollywood conventions than to anyone's actual experience. There are exceptions, of course, but they prove the rule: We remember *The Deer Hunter* as a "classic" because it is so unlike most other movies. One unfortunate consequence of Hollywood's vast hierarchies and concentrated wealth is a dearth of personal, idiosyncratic visions independent of the industry's culture. It costs a lot of money to make a movie, and studio heads are understandably wary about risking that dough on something unproven.

The alternative is to make movies independently. Film, the poet-director Jean Cocteau once said, will become an art when it is as inexpensive as pencil and paper. Today, Cocteau's surrealist fantasy has almost come true. Scrappy artrepreneurs, armed with cheap camcorders and digital editing software, are finding it easier and easier to set creative, highly individual visions to celluloid or video. What's more, these new directors are independent in a way most earlier "independent filmmakers," heavily *dependent* on a tightly knit grant-giving establishment, never were.

Consider Rick Castro, 37, the co-writer and co-director of *Hustler White*. A gay Angeleno, Castro was fascinated with Santa Monica Boulevard and its "amazing interaction" between hustlers and cruisers. The scene was obvious to those who knew what was going on, but others could pass through it obliviously.

Made for just $50,000, *Hustler White* is actually rather expensive compared with other recently produced ultra-low-budget features.

An obsession was born. "I got so intrigued with the hustlers' stories," Castro explains, "because as I was spending time with them and photographing them, they would tell me these hustler yarns. I heard romantic stories, psychotic stories, near-death experiences, the whole range of human emotion."

Santa Monica Boulevard is literally *in* Hollywood, yet Castro could find no honest depictions of its world in the films the town was churning out. There was a brief mini-trend of hustler movies, most of which he describes as "really bad." Particularly offensive to him is *johns*, a current "independent" ($1 million budget) release supposedly set in Santa Monica but in fact entirely filmed elsewhere. "This was obviously directed and written by a straight man," Castro comments. "It shows no interaction with gay sexuality whatsoever. It could have been a film about female prostitution—that they are males is just a 'twist.' If this *was* a film about female prostitution, it wouldn't go anywhere—you get the idea the director thought using males would be just bizarre enough to get people's interest, but he'd water it down enough for it to be accepted by a mainstream audience."

SO CASTRO AND HIS COLLABORATOR, Bruce LaBruce, decided to make their own movie. They met and talked with the boys, who recounted tales of odd johns, brutal vice squad sweeps, the drug trade, the trade in stolen goods. Some of their stories almost certainly stretched the truth, but that didn't matter: It all went into the pot, was stirred well, and came out, the filmmakers hope, as a surreal but authentic evocation of that particular culture in that particular place.

Made for just $50,000, *Hustler White* is incredibly cheap by Hollywood standards. But among the new wave of ultra-low-budget features, it actually comes in at the high end of the scale. Rick Schmidt, writer-director of *Morgan's Cake* and *American Orpheus*, has been making well-regarded movies for under $10,000 since the 1970s. (He's since written a very good book, *Feature Filmmaking at Used Car Prices*, aimed at helping others do the same.) Writer-editor-director Antero Alli cut his teeth in experimental theater, later began shooting documentaries and shorts, and eventually produced his first feature, *The Oracle*, for just $1,000. While intermittently brilliant, it has its problems—the sound quality could stand some improvement, and some of the acting is on the amateurish side.

But that's another advantage to low-budget filmmaking: The freedom to make, and learn from, one's mistakes. Alli's second picture, a science-fiction tale called *The Drivetime*, was made for just $5,000. Set in Seattle in 1999, it spins a complicated story of media saturation, time trav-

RICK CASTRO

el, and police riots, peppered with psychedelic infomercials (penned by "Real Astrology" columnist Rob Brezsny) and political terms borrowed from the anarchist writer Hakim Bey. It is a quantum leap forward, arguably one of the best movies of 1995. (Full disclosure: I'm an extra in it. But frankly, speaking as a critic, I think it would be better without me.)

IT MAY BE MISLEADING TO CREATE A NEW category for these filmmakers, separate from the traditional "mainstream" and "independent" pigeonholes. None of them eschews grants, and few would balk at the chance to play with a Hollywood budget. But they represent something genuinely different—if not exactly new, then larger than ever before, thanks to three technological revolutions.

The first of these is video. The price of good camcorders is dropping even as their quality dramatically improves. Traditionally, directors have shot with film, and for those who can afford it, this remains the medium of choice. But for those who can't, there are ways to get around video's disadvantages. One is to make a movie in which the video look is appropriate for the story. Many of the characters in *The Drivetime* are videographers, and much of the movie is seen through their cameras' eyes. The result is an attractive mix: a fantasy film with a documentary feel. Furthermore, the video look seems thematically appropriate for the movie, given the picture's concern with media and mediation.

Beyond that, there are several tricks a director can use to overcome video's flat look. Alli discusses them in an essay ("Video Deconstruction: Cinematic Values in the Videofilm"), listing such techniques as "shooting silhouettes against bright back lighting" and "framing a strong background to foreground contrast." The idea is to create the illusion of depth in an innately two-dimensional medium. Painters have successfully tackled this problem for centuries, and it seems reasonable to suggest that video directors might manage to as well.

And, where all else fails, there's Film-look, a recent digital process that adds simulated film frames, along with film texture and color, to video. It's expensive, but it's cheaper than celluloid itself.

The second revolution is digital editing: transferring video footage onto a computer and editing it there. While we aren't yet to the stage where someone armed with a Macintosh and top-notch software can match the output of a professional editing lab, we're getting there. As Schmidt writes in *Feature Filmmaking at Used Car Prices*, "it shouldn't be long before the rising tide of new filmmakers...

While we aren't yet to the stage where someone armed with a Macintosh and top-notch software can match the output of a professional editing lab, we're getting there.

will be able to edit their movies on computers that fit in their briefcases. In fact an entire collection of video production equipment, Hi-8 video camera and Mac PowerBook will be able to fit inside a bowling bag!"

THE THIRD REVOLUTION—OR, MORE accurately, potential revolution—is video-on-demand: the ability to download feature films quickly over the Internet. Thus far, this has been more media hype than living tech, and one can be forgiven for suspecting that it will turn out to be only so much commercial hot air. Nor has the hype been particularly thoughtful. It's been simply assumed that VOD would be little more than just another consumer pleasure (Now You Can Rent The Hollywood Hits Without Leaving Your Home!). But if it comes through, it would also have shattering consequences for distributing independent features and shorts.

Getting distributed is one of the toughest jobs an independent filmmaker faces, matched only by managing to avoid get-

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ting a bad deal from whatever distributor one ultimately finds. VOD could change all that. Transaction costs would drop to almost nothing, leaving only the problem of getting the word out that one's movie is available to be seen. Says Schmidt, "The Internet offers hope to the true independent filmmaker that he or she might find a small and appreciative audience, and maybe even get some revenue."

IN THE MEANTIME, OTHER MEANS FOR SHOWing indie pictures may emerge. Alli foresees "video venues, not unlike cinemas" that will emerge after "the rush of video technology in the hands of enough people making videos." Here again, diminishing expenses are radically decentralizing the marketplace. It costs much less to buy a VCR and a large-screen monitor than the equipment necessary to set up a traditional theater. All you really need are something to show and some people willing to watch it.

And occasionally, a big distributor picks up a low-budget movie and it becomes a hit. Robert Rodriguez's thriller *El Mariachi*, financed in part by becoming a paid guinea pig in drug tests and originally made for only $7,000, is one example. Another is Kevin Smith's *Clerks*, made for just $21,000. A comedy set in two New Jersey convenience stores, *Clerks* resembles the otherwise very dissimilar *Hustler White* in two very important ways. It depicts a particular place, and a particular way of life, that no Hollywood studio has ever managed to represent authentically. It doesn't bother worrying about that segment of the audience that will find it uninteresting or offensive. And, just as the spread of cheap printing presses once gave voice to marginal writers, the new film technologies allow for a greater range of cinematic expression and consumption.

One can overrate the effect of technology on art, of course. "Anyone can make a direct-to-video cheapo or a direct-to-parents'-and-friends'-bookshelf for under $20,000," comments Irwin Lewis, the writer and co-producer of the forthcoming *Nobody Rides for Free*. "You can buy a VHS tape for about six bucks; without doing any editing or counting the use of your mom's video camera, that's a 120-minute feature for $6.00." The "real story," he continues, is "how you can put $20,000 into a film and make it look better than a movie somebody soaked hundreds of thousands, even $1 million or more into.

"This can be done because of advances in technology, yes, but even more important is the amount of information available to today's low-budget filmmaker, the inspiration of those who have gone before, and the creativity of modern low-budget filmmakers," he concludes.

Antero Alli's second picture, a science-fiction tale called *The Drivetime*, was made for just $5,000.

The Drivetime's Alli similarly stresses that the new equipment is secondary to the creative impulse. "I don't know if it's easier to make movies these days as much as it is *necessary*," he says. "Some people can only consume so much before, out of sheer necessity, they are forced to regurgitate and reinterpret the media they eat. Out of this group, maybe 10 percent will actually do something concrete, like make a movie or a video, or produce a CD, or publish a newsletter, or start a pirate radio station."

SOME OF THOSE CREATIVE REGURGITATORS may well move into the mainstream one day. Which leads us to two last points about these new technologies' effect on the art of film: They allow young directors to carry out their apprenticeships on their own. Kids have been fooling around with cameras for a long time, of course. An adolescent Kenneth Anger shot his first movie in his family's living room while his folks were out of town—in 1942. But now much more sophisticated technology is much cheaper, allowing young talents to bypass (or better prepare for) a highly competitive, highly limited, and highly expensive slot in a traditional film school.

Witness Justin Lowe, a 15-year-old Scorsese fan who lives in Waldport, Oregon. With a Hi-8 Camera, some editing software, and a PowerPC, Lowe makes movies. Granted, they aren't very good movies, as he is the first to admit. But that's beside the point: They're a valuable exercise in self-education. In June, he mailed me a copy of his last picture, *20 Seconds to Live*, along with a list of everything wrong with it: "Microphone picks up lens movement"; "Microphone picks up camera noise"; "Stall door hits camera"; "Lame music"; "Overly dramatic scene"; and "With a budget there would have been a real explosion." And my favorite: "Scene in here for no purpose but to show that I had been there in real life." His conclusion: "Overall, I think *20 Seconds to Live* is an extremely pointless movie that is in need of a plot....I'm sorry that you had to spend money on postage and tape to see this."

In need of a plot? Maybe. But not pointless. Every experiment and every mistake is a valuable lesson, and brings this energetic talent closer to his first "real" feature. Rodriguez made movies like this when he was a teenager, using far more primitive equipment. I doubt he wants any of the pictures he shot back then to be publicly screened today, but I'm also sure he's glad he made them. (Besides, *20 Seconds to Live* does deserve a special Oscar for Funniest Unexpected Use of Bagpipes on a Motion Picture Soundtrack. And it's better than anything Pauly Shore ever starred in.)

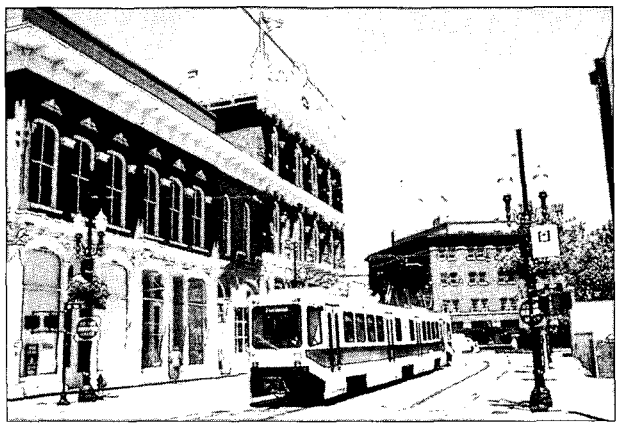
Ten years from now, stories like this won't even sound unusual. Moviemaking equipment won't be as inexpensive as pencil and paper, but it should be cheap and plentiful enough to satisfy Jean Cocteau. Whatever fads may then be ripping through Hollywood—or the National Endowment for the Arts—one can rest assured that there will be maverick artists ready to buck them and go it alone. ®

Jesse Walker (jwalker@daka.com) is assistant editor of Liberty.

A Desire Named Streetcar

By Christopher Serres

Portland's light-rail system carries a heavy load.



Ever since Portland built its first MAX line a decade ago, light rail has been a regulatory quagmire.

For Bob and Cathy Beck, the small community of Orenco, Oregon, seemed the perfect place to retire. Nestled in the heart of the scenic Tualitan and Willamette valleys, Orenco had roughly the same population—250 residents—that it had 50 years ago. Despite the rapid growth of Portland, located just 20 minutes away, Orenco is still surrounded by wide-open pastures, rickety barbed wire fences, and a nine-hole golf course built in 1953. "Orenco seemed like the kind of place where we wouldn't be bothered," says Cathy Beck, who poured her savings into a new two-story home. "It seemed so *permanent*."

This permanence collapsed in the fall of 1995, when urban planners discovered Orenco's potential for "transit-oriented development" (TOD). The community happens to border a 28-mile light-rail line that connects downtown Portland with its western suburbs. Portland's regional planning board, Metro, announced that Orenco—a quiet section of the booming suburb of Hillsboro—would be an ideal site for a light-rail station. But Orenco's wide-open streets and spacious homes were too amenable to car travel. So, to encourage local residents to jump on the rails, the Hillsboro city council passed an ordinance requiring "high density," multifamily TOD within Orenco's boundaries.

The light-rail regulations are transforming a sleepy, suburban community into a dense, urban landscape. On a piece of undeveloped land directly behind the Becks's new home, workers have begun construction of 20 pink and white condominiums. Three more condominium and apartment developments, housing an estimated 120 new residents, will blanket Orenco's remaining undeveloped land. Urban planners hope developers will finish the construction by 1998, to coincide with the grand opening of Orenco's new light-rail station.

While the Becks have no complaint with the light-rail system per se, they find the accompanying regulations needlessly stringent. In their spacious backyard, Cathy Beck had planned to build a small, one-story bungalow for her mother, who requires constant medical care. The local planning commission nixed the request. Under new minimum-density zoning regulations, the Becks cannot build a one-room apartment unless they construct an additional four units on the same property—something they aren't willing to do.

To avoid this hassle, the Becks considered selling their home and moving outside Portland's light-rail development area. But they say the market value of their property has fallen by 20 percent since the new development began earlier this year. Potential buyers are worried that Orenco has become too congested for a suburban home. "We might as well be living next to an office building in downtown Portland," says Cathy Beck.

The Becks are among many Oregon property owners frustrated with land-use regulations connected with Metropolitan Area Express (MAX)—the $2.6 billion light-rail project connecting downtown Portland with its swelling suburbs. Ever since Portland built its first MAX line a decade ago, light rail has been a regulatory quagmire.

The new regulations require that all housing developments within two square miles of a light-rail station contain at least 12 units per acre—roughly double what was allowed under previous zoning laws. Moreover, most local governments in the Portland area have passed strict parking limits to discourage auto use near light-rail stations. In case these regulations are not enough, the state legislature recently passed Senate Bill 1156. This legislation gives Metro the power to overturn any local zoning law or ordinance that interferes with light-rail development.

Developers who had planned to build commercial buildings or traditional suburban homes are now required to build apartment buildings, condominiums, or row houses. Homeowners who thought they were living in sleepy, suburban neighborhoods are finding themselves immersed in big-city neighborhoods.

"It doesn't matter how many people yell and scream," says Jon Chandler, director of governmental affairs for the Oregon Building Industry Association. "If the government passes a law requiring apartment buildings, the government will get apartment buildings."

Greg Specht, a Portland-area developer, knows that all too well. In 1988, he bought an option on 75 acres of prime land in Beaverton, a thriving suburb west of Portland. Specht planned to build on the land, which borders shoe-

maker Nike's corporate headquarters. But those hopes were dashed when the government announced plans for a new light-rail station next to his property. The Beaverton planning commission imposed minimum-density requirements and parking limitations on land surrounding the station. Then Metro required Specht to work with county and local governments to create a "master plan" for future development on his property.

Although Specht was willing to comply with most of the new regulations, he found a limit of fewer than two parking spaces per housing unit—regardless of the size—unreasonable. Most people, he insists, expect to have parking spaces for their cars, even—perhaps especially—with a nearby light-rail station. After several meetings, however, the Beaverton planning commission refused to budge. So Specht sold his option to Nike, which declines to divulge any plans for the property. "Had the government been just a little more lenient, I might still own that property," says Specht.

INDEED, THE POLITICAL PROCESS OFFERS property owners scant protection against these regulatory intrusions. Most Portland area residents do not own land near the new light-rail stations; they have little reason to sympathize with those who must overcome obstacles to development. Some are grateful the new regulations are confined to the light-rail corridor instead of their own neighborhoods. As a result, regular public meetings on light rail simply enable a majority—which reaps the benefits but not the costs of light rail—to demand more regulations on those who have the misfortune of owning land near a public infrastructure project.

This is the political dynamic underscored in Richard Epstein's *Takings: Private Property and the Power of Eminent Domain* (1985). Public zoning laws, notes Epstein, a University of Chicago law professor, will almost always favor a broad majority interest over minority rights. "Land-use regulation places the land back into a modified common pool," writes Epstein, "where many persons can limit the future use of the land, even though only one person, the owner, can actually use it. Ill-defined rights replace well-defined ones."

Property rights groups such as Oregonians in Action are speaking out against the zoning and planning laws on the grounds that they are regulatory takings restricted by the U.S. Constitution. Unless the government can make a compelling case why these regulations will improve neighborhoods, argues Bill Moshovsky, vice president of Oregonians in Action, property owners should receive "just compensation" from those governments imposing the new regulations. "We can't just let the government transform entire neighborhoods and communities without *some* accountability," he says.

The political process allows the majority to demand more regulations on those unfortunate enough to own land near light-rail stations.

So far, Oregonians in Action has filed no legal challenges in the light-rail case, choosing instead to wage a publicity campaign against the onerous regulations. The group has had some notable successes. It prevailed in *Dolan v. the City of Tigard* (1994), a groundbreaking U.S. Supreme Court case that should offer some inspiration to property owners affected by light-rail regulations. In *Dolan*—a decision heavily influenced by Epstein's analysis—the Court ruled that a government must prove a "rough proportionality" between its regulations and the "legitimate state interests" it is trying to advance.

The Court ruled that a business owner could not be forced to build a public bike path and flood easement in exchange for a government permit to expand a hardware store. In this case, the "state interest" was to control traffic and floods. But the means—requiring one landowner to build public projects on her property—was ruled "excessive."

Oregonians in Action believes that Portland-area governments should be held accountable to this "rough proportionality" requirement. Zoning commissions, says Moshovsky, must explain how sweeping new regulations requiring dense development along a 28-mile light-rail corridor will accomplish a "legitimate state interest." If this correlation cannot be made, then private landowners should be compensated for any costs incurred from the new regulations.

"There is no reason why land-use planning should get all tangled up with light rail," says Moshovsky. "Why target a minority of property owners to alleviate the excesses of the majority?" If the streets are congested by automobile traffic and the environment damaged by engine emissions, continues Moshovsky, then the government should focus on auto users.

METRO OFFICIALS MAINTAIN THAT THE state interest in light-rail regulations is that dense living arrangements and limited parking will keep thousands of people out of their cars. If more shops and housing units can be clustered near light-rail stations, Metro argues, then people will jump on the rails instead of the highways. That will mean less road building, reduced congestion, and less pollution. "Unless government aggressively pursues planning opportunities [near light-rail stations], light rail is pointless," says Rajiv Batra, an urban designer with the city of Hillsboro.

A combination of dense development and light-rail stations will create "transit communities" far preferable to traditional, suburban neighborhoods, say Metro officials. Once people ditch their cars, they will enjoy walkable neighborhoods, good bookstores, nice restaurants, and reduced pollution. "Imagine a few years from now traveling home, at day's end, on Westside MAX. Along the way, you stop at one of the stations. Walking through the landscaped square, you order an espresso, stroll by a flower cart and stop at a newsstand to pick up a copy of the paper or

your favorite magazine," reads one glossy Metro brochure. A computer-generated photograph depicts local residents making their way to the light-rail station by foot and bicycle.

THIS IDYLL IS BASED ON THE UNPROVEN assumption that people prefer rail transportation to auto use. Past evidence suggests that, even when Portland area residents have public-transit alternatives, they stick with their private vehicles. Since the city completed the first stage of its MAX line in 1986, more people are driving more miles every year. Although MAX ridership increased about 20 percent over the past decade, it remains far below predicted levels. In 1986, Portland's transit authority, Tri-Met, projected 42,500 daily riders; in 1995, MAX carried only 25,000 riders per day. The percentage of work trips taken in the Portland area by light rail and buses actually dropped by 23.2 percent during the 1980s, according to Tri-Met. Virtually the same decline, 23.5 percent, occurred in Seattle, which does not have a light-rail line.

The disappointing ridership of MAX should come as no surprise. With a few exceptions, Portland's light-rail project weaves through city traffic, making frequent stops along the way. The result is a scheduled operating speed of 19.6 miles per hour. That's roughly the same speed as a "trolley car from the 1930s," notes Myles Cunneen, a Portland-based transportation consultant and former Tri-Met employee. "Why would I jump on light rail and travel at 20 miles per hour when I could jump in my car and travel twice that speed?" asks Cunneen.

If the past is at all prologue in the Portland area, it seems unlikely that the MAX-related regulations will get people out of their cars and onto light rail. The more likely outcome, says Cunneen, is "more people *and* more cars." With few parking spaces and tight living conditions, congestion will get worse. That's hardly brochure material. R

Christopher Serres (lseight@aol.com) is a freelance journalist based in Portland.

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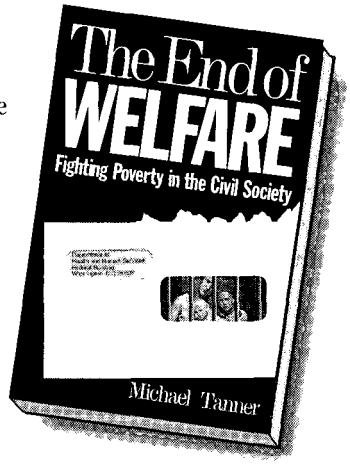

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The Adventures of "But-Man"

By John J. Pitney Jr.

Between Hope and History: Meeting America's Challenges for the 21st Century, by Bill Clinton, New York: Random House/Times Books, 178 pages, $16.95

WHEN HILLARY CLINTON published *It Takes a Village*, she failed to give credit to Barbara Feinman, the ghostwriter who did much of the work on the book. This omission created bad publicity, and according to press reports, it also prompted Feinman to strike back by telling Bob Woodward about Mrs. Clinton's "seances" with Eleanor Roosevelt. Apparently, President Clinton does not want a similar problem. ("COL. SANDERS ASKS PREZ: DO YOU WANT FRIES WITH THAT?") At the end of *Between Hope and History*, he acknowledges policy consultant William E. Nothdurft, "who was primarily responsible for helping to draft this book."

Poor Mr. Nothdurft. In order to assemble the book, he first had to read the president's speeches, which are cholesterol for the eyes. Then he cut, pasted, and edited various passages into a first draft, which the president purportedly reworked. For a respected author such as Nothdurft, the process must have been a burden: It wasn't writing; it was cooking with a crock pot.

Thanks to the word-search capability of the White House site on the Worldwide Web (www.whitehouse.gov), it is easy to tell exactly where many of the ingredients come from. The opening passages, which celebrate how the American spirit overcame the Olympic Park bombing in Atlanta, derive from an August 5 speech in Washington, D.C. The proposal for "America's Hope Scholarships" appeared in the president's June 4 commencement address at Princeton. His praise for the job-saving efforts of Harman International (a firm headed by a Democratic lawmaker's husband) made its debut in California on March 8.

In this manner, you can probably track the origins of nearly every paragraph in this book. But if you actually go ahead and do so, that's a sign that you have way too much time on your hands.

Between Hope and History is the longest 178-page book in the history of publishing. Its three main sections—Opportunity, Responsibility, and Community—comprise page after tedious page of familiar policy prescriptions, such as preserving AmeriCorps and extending gun control. If you want the gist of President Clinton's message, look instead to the 1996 Democratic platform, which is much more concise and a lot cheaper. (Web surfers can access it for free at www.democrats.org.)

STILL, THE BOOK HOLDS SOME INTEREST for political buffs. Through sheer repetition, it highlights a technique that defines the president's rhetorical style: firmly endorsing limited government or free markets, then adding a qualifying clause that turns the original statement into vapor.

- "[The] era of big government is over. But I do not believe that we can abandon our obligations to our children, our parents and grandparents, and to future generations."
- "We don't want our government in our face, but we do want it on our side when we need it, and quickly."
- "The market is a marvelous thing, but especially in the global economy, it won't give us safe streets, a clean environment, equal educational opportunities, a healthy start for poor babies, or a healthy and secure old age."
- "We don't need protection, we need opportunity. But in a world of stiff competition we also need more than free trade. We need fair trade with fair rules."

Through these comments, the president inadvertently reveals his secret super power: the ability to transform himself from New to Old Democrat just by uttering a one-syllable conjunction. Since he wants the television networks to air more children's programming, perhaps he

AKRON BEACON JOURNAL '96
WELL, ARE WE ELEANOR ROOSEVELT OR JOAN OF ARC TODAY?
I DON'T KNOW. ARE WE LIBERAL OR CONSERVATIVE TODAY?

CHIP BOK

could make a contribution by starring in his own series: *The Adventures of "But-Man"* (and his Trusty Sidekick, "However").

THE MORPHING OF THE PRESIDENT DOESN'T end there. At times, his prose bears a striking resemblance to that of Newt Gingrich.

In December 1994, Gingrich told House Republicans to read the Declaration of Independence, with special attention to the phrase "pursuit of happiness." He said: "Each individual has to be engaged in the pursuit—not guaranteed the finding." In *Between Hope and History*, Clinton says: "America promises the opportunity to pursue happiness but does not guarantee it."

In *To Renew America*, Gingrich wrote: "Our rights are pale shadows of our responsibilities. When the Founding Fathers pledged their lives, their fortunes and their sacred honor they meant it literally." The president says that America is about interdependence as well as independence: "And it was to both that our Founders in the Declaration of Independence said they would 'mutually pledge our lives, our fortunes and our sacred honor.'"

The speaker in *To Renew America*: "Why are governments so painfully slow at adapting to change?...Governments almost always grant monopoly status to their own operations so they won't have to compete." The president in *Between Hope and History*: "Many of today's [government] operations still run like monopolistic, big industrial corporations....Government, however, was slow to recognize this and even slower to respond."

Is Clinton cribbing from Gingrich, or is it the other way around? I think it's the former, since Gingrich was already using such themes and language in his 1984 book, *Window of Opportunity*. Gingrich helped shape the contemporary Republican vocabulary, so if President Clinton's strategy is to sound like a Republican (sometimes), it's natural that he will sound like Gingrich.

Just as revealing as President Clinton's identity transformations are his rather unusual readings of history. In a rehash of a 1994 speech at UCLA, he says that Progressives such as Woodrow Wilson sought to mend the frayed fabric of family and community. At the end of World War I, he notes sadly, the country lost its way. "America withdrew from the world, seeking security in isolationism and protectionism. We withdrew here at home, too, into the trenches of racial prejudice and bigotry and away from the protection of our citizens and economic institutions. Ten years later, in 1929, that decade of neglect produced the Great Depression."

Clinton identifies himself with Woodrow Wilson and the Progressives, so he overlooks their sins, imputing them instead to the wicked Republicans. Curiously, the book's acknowledgments do not list Oliver Stone as an historical adviser.

The President's chronology of protectionism is slightly defective: Smoot-Hawley passed in 1930. And leaving unanswered the question of how racial prejudice help trigger the Depression, he also implies that this prejudice represented a backsliding from the Progressive Era. This is piffle. As C. Vann Woodward explained in *The Strange Career of Jim Crow*, national Progressives had a blind spot for blacks. "In fact," Woodward said, "the typical progressive reformer rode to power in the South on a disenfranchising or white-supremacy movement." The Klan gained enormous power during the administration of Woodrow Wilson—himself a 200-proof racist—but by the end of the 1920s, it was actually declining.

The president is rewriting history for his own purposes. He sees evil Republicanism as a cyclical phenomenon, so he adapts a faulty analysis of the 1980s ("de-

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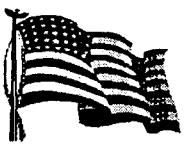

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A more benign whopper comes when Clinton quotes Thomas Jefferson as saying that democracy depended on the "yeoman farmer." So far, so good. Then he claims that "although Jefferson was a farmer himself, he wasn't making a pitch for agriculture." Today's "yeoman farmers," he says, are American families, whether they live on the farm or in the cities. That's a very inspiring image, Mr. President, but it's not what Jefferson meant. Calling farmers "the chosen people of God," Jefferson said that urban occupations corrupted morals: "The mobs of great cities add just so much to the support of pure government, as sores do to the strength of the human body." Clinton probably would not want to quote that line while campaigning in New York or Los Angeles. And in the industrial Midwest, he should probably forget about Jefferson's comments on manufacturing: "[L]et our work-shops remain in Europe. It is better to carry provisions and materials to workmen there, than bring them to the provisions and materials, and with them their manners and principles."

Clinton is no more accurate about his own history than he is about the country's. When he was growing up, he says, the only unpaved streets in Hope, Arkansas, were in the black neighborhood near his grandfather's store. He uses this observation to bring a personal dimension to his pitch for affirmative action—but there's just this one small problem. "I don't know what the hell he's talking about," one of the president's distant relatives told the *Arkansas Democrat-Gazette* when he first spun this yarn in 1995. "These streets were paved back then, sure to God. I know it was in '60—more than 30 years ago."

Between Hope and History has some significant omissions. There's no mention of the need to prevent the political abuse of confidential FBI files. Why not? He says that he has supported "expanding school choice and charter schools." Why does he forget to add that he only means choice among government-run schools? Why doesn't he discuss the fine private schools that he and the vice president have chosen for their own children?

These are serious questions, but *Between Hope and History* is not a serious work. It is a recycling bin with hard covers. ®

John J. Pitney Jr. (jpitney@mckenna.edu) is an associate professor of government at Claremont McKenna College.

What's the Big Idea?

By Chandran Kukathas

Isaiah Berlin, by John Gray, Princeton, N.J.: Princeton University Press, 189 pages, $19.95

According to John Gray, the writings of Isaiah Berlin amount to the most compelling liberal political philosophy of our time. At the heart of Berlin's thought, he claims, is an idea of enormous subversive force, an idea Gray calls "value-pluralism." This is the idea that ultimate human values are objective but irreducibly diverse, that they are conflicting and often uncombinable, and that sometimes when they come into conflict they are incommensurable, or incomparable by any rational measure.

The implication of this view for political philosophy is that the idea of a perfect society is not only utopian but also incoherent. Political life demands that we make radical choices between rival goods and evils. Reason cannot resolve the problem this poses for, in the end, choices invariably bring not only gains but also losses, some of which may be tragic. What this also means is that those dominant liberal philosophies of our time which claim, or hope, that fundamental liberties or rights or claims of justice are compatible or harmonious are seriously in error, if not entirely deluded. Any serious liberal political philosophy should, therefore, begin not with these Panglossian aspirations, but rather with Berlin's more sober, "agonistic" view.

These are bold claims. If defensible, they make Berlin one of the most important political thinkers of our time, while also telling us to rethink in a fundamental way much of contemporary political philosophy. Any review of John Gray's study must, therefore, offer not only an evaluation of its interpretation of Berlin's thought, but also an assessment of the persuasiveness of the larger philosophical claims that lie at the book's core. This is a trickier task than it appears, for while Gray presents himself as Berlin's interpreter he is also an enthusiast who is as much concerned to defend his own political philosophical views. Isaiah Berlin interpreted by John Gray may tell us more about Gray than about Berlin.

Berlin's master idea, in Gray's view, is the idea of value pluralism. The very idea that Berlin has a master idea has, however, the air of paradox about it. One of Berlin's most famous essays, "The Hedgehog and the Fox" (a study of Leo Tolstoy's view of history), distinguished two types of thinkers: those who, like the fox, knew many things, and those who, like the hedgehog, knew one big thing. In maintaining his value-pluralist attitude, Berlin has taken a stance against what he calls "monism"—the idea says Gray, "that there is a single master-value, together with the related idea that all values are somehow necessarily compatible or harmonious." But denying that there is "one big value" seems to be the one big idea that Berlin knows. Is the fox really a hedgehog?

Understanding who Berlin is may

throw a little light on this subject. Born in 1909 in Riga, Latvia (where he grew up speaking Russian and German), he was old enough in 1917 to witness the first Russian Revolution when living with his family in Petrograd. He moved to England in 1921, completing his schooling at St. Paul's and his university education at Oxford—where he has lived since (and where he remains a fellow of All Soul's College). He held the Chichele Chair in Social and Political Theory at Oxford (1957–67) and was president of the British Academy (1974–78). As a scholar in one of Britain's leading universities, he became the preeminent, and easily the most influential, historian of European ideas, writing important studies of thinkers ranging from Machiavelli and Marx to Hegel, Vico, and Herder. He also wrote extensively on Russian political thought.

Yet while securely based in Oxford, Berlin was not restricted in his movements or confined in his interests. During World War II he worked for three years for the British government in New York and Washington. He has had extensive personal contact with European philosophers, artists, musicians, and poets, from French-Russian philosopher Alexandre Kojève to novelist Boris Pasternak, as well as with prominent American thinkers such as Leo Strauss. As a man of letters he has moved easily and often between different intellectual worlds, across the Atlantic as well as across the English Channel, talking and writing about philosophy, literature, and music.

In his intellectual development, however, he was, by his own account, formed by Anglo-American philosophy and by the thought of Immanuel Kant. (Of such modern continental philosophers as Adorno and Derrida, he confesses, he "could not understand a word.") As a Jew and a Zionist he has felt at home in Israel because there he has felt free, and not like he was in a foreign country; yet he remains "totally loyal to Britain, to Oxford, to Liberalism, to Israel, to a number of other institutions" with which he identifies. As a moralist, he has disdained totalitarianism both in its communist and fascist incarnations, and his most famous essay, "Two Concepts of Liberty," makes clear his concern for freedom and its fate in the hands of illiberal interpreters who talked of "positive liberty."

THIS IS THE MAN WHOSE THOUGHT JOHN Gray represents to us as the ideas of a value pluralist. Berlin's thought, in this account, is rooted in a rejection of a conception of human nature associated with the Enlightenment. Berlin's view, Gray argues, "is a view of man as inherently unfinished and incomplete, of man as at least partly the author of himself and not subject comprehensively to any natural order. It is also a view of man in which the idea of a common or constant human nature has little place, one in which the capacity of man as a supremely inventive species to fashion for itself a plurality of divergent natures is central."

A consequence of this element of indeterminacy in human nature is a diversity of human ways and, thus, a diversity of natures. Indeed, Gray argues, the propensity to diversity is no accident; it is built into the species, for it is implied in man's nature as a species whose life is characterized by the capacity for choice. A further implication of this diversity is that the idea of a single human history is "as misconceived and incoherent as the idea of a perfect human life," for "just as it is in the nature of language that there are always many languages, so there are always many human histories, never only one." The conception of human nature at work here is entirely historicist, and not at all naturalistic.

Now, if Berlin's account of human nature is right, it would make no sense to talk about basic human interests as if all humans could have certain interests in common. And indeed, it is a crucial thesis in Berlin's position that values are plural. More than this, they are necessarily plural. They are also uncombinable and sometimes incommensurable. For Berlin, then, there will arise within any code of morality conflicts among ultimate values which cannot be resolved either by theoretical or practical reason: Liberty may

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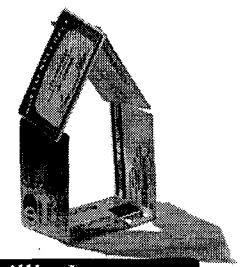

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conflict with equality or fairness. In fact, even within each of these goods there may be conflicts: Different liberties may turn out to embody conflicts of incommensurable values (freedom of information versus privacy, for example); as may different equalities (equal opportunity versus equal welfare). Finally, different cultural forms will generate different moralities and values; and, despite some overlap, they will specify many incommensurable virtues and conceptions of the good.

This argument is important not only because it expresses a different view of human nature (or, rather, of the possibility of human nature) but also because it is the basis of John Gray's critique of a variety of liberalisms, all of which he finds guilty of the error of seeking foundations in universal claims about human nature and human values. That it is Gray who is the writer interpreting Berlin is a point of no small significance. Since the early 1980s, John Gray has produced a remarkable number of works which, in the course of exploring the liberal tradition, have sought the foundations of liberalism. In his 1983 study, *Mill on Liberty: A Defence*, he uncovered those foundations in a version of indirect utilitarianism, but abandoned this as unsatisfactory. In the works that followed, his thought turned for guidance in turn to Hayek's classical liberalism, James Buchanan's contractarianism, and eventually to Michael Oakeshott's skeptical anti-rationalism.

BUT EACH OF THESE ANSWERS WAS ABANdoned as untenable; and over the course of two much-discussed collections of essays, *Liberalisms* and *Postliberalism*, liberalism itself was abandoned as incapable of being given any sound philosophical defense, though it might be embraced as a tradition by those people for whom its institutions were a cultural inheritance. By 1995, however, even this position was rejected by Gray in his book *Enlightenment's Wake*, which saw in liberalism an inheritance that embodied all the worst philosophical errors of the Enlightenment. At the heart of these errors were the misunderstandings of human nature we find evident in the assumptions of all those modern liberal thinkers who have striven, hopelessly and pointlessly, to set liberal principles on a firm footing. The political consequences are to be seen, if Gray is to be believed, in the social disasters of the age: from neo-fascism to the breakdown of human community in market societies.

In the light of this, it has to be asked whether the Isaiah Berlin of John Gray is the real Isaiah Berlin. This is not an easy question to answer because there is much in Berlin's thought that lends credence to Gray's interpretation. The difficulty increases when one remembers that Berlin is, fundamentally, a historian of ideas rather than a philosopher. While he himself is skeptical about this distinction, it remains true that his ideas come to us seldom as direct reflections upon a philosophical problem and more often as commentary on movements of ideas, or on the significance of a single person's thought. Indeed, one might wonder whether it makes sense at all to talk about Berlin's own "thought."

There are Frenchmen, or Italians, or Spaniards, because cultural diversity is inherently a feature of the human condition. But this doesn't mean much, and it does not obviate the possibility of a universal human nature.

Rather than try to resolve this problem of interpretation directly, it may be worth asking, first, how convincing is Gray's case, not as interpretation but as philosophy. Can one draw from Berlin's writings the anti-Enlightenment case John Gray wishes to mount? The answer here, I suggest, is an emphatic "no." The fundamental argument that must be challenged is the claim that there is no constant human nature because human beings are necessarily diverse—that there is no universal humanity.

Was Joseph de Maistre right (and as insightful as Gray suggests) when he observed, "he has made the acquaintance of Frenchmen, and Englishmen, Italians and Spaniards, but never of man"? Well, there is clearly a sense in which it is true that humans are "inherently plural and diverse." There are many different kinds of people, who speak different languages and live in different ways. Yet this point is trivially true: Superficially, there is "inherent" diversity as long as it is possible to have varieties of the same type. Nothing is gained by saying that this diversity is "inherent" or "necessary." Both chocolate boxes and dating agencies come in different shapes and sizes—how could it be otherwise? Yet they are in no interesting sense inherently diverse and plural. If they are inherently diverse, everything is.

YET BERLIN (OR GRAY) MAY BE PUTTING forward a subtler claim, to the effect that diversity exists necessarily at some deeper level. Human beings are beings with substantial differences, and these differences are necessary. There are Frenchmen, or Italians, or Spaniards, because cultural diversity is inherently a feature of the human condition. But this doesn't mean much, and it does not obviate the possibility of a universal human nature. Maistre's remark really makes little sense, since an obvious reply would be to say that one has met Parisians, Burgundians, and Alsatians, but never anywhere Frenchmen. A world without Frenchmen is perfectly imaginable: It existed for most of European history. Equally, a France of Frenchmen is quite possible, even if it may have been unimaginable in the days when Europe comprised more than 300 political communities. If the diversity of France can meaningfully be comprehended in the term *Frenchman*, there is no reason why the diversity of the world cannot equally be comprehended in the term *human*.

Gray's (or Berlin's) arguments about the significance of the incommensurability of values are also of doubtful importance. Two valuable options are incommensurable, he argues, when neither is better than the other and there is (or could be) another option which is better than one but not better than the other. For example, Aeschylus and Shakespeare are both great dramatists whose dramatic art is incommensurable: It is wrong to say one is better than the other. But we can still say that Euripides is better than Aeschylus without it following that Euripides is better than Shakespeare. The latter two are incomparable because their work exemplifies different values in drama, though we can compare each with other contemporaries. Or, to take another example, we cannot rank a Gothic cathedral with the Taj Mahal. They are simply incomparable. More importantly, forms of life are incomparable.

THE IMPLICATION OF ALL THIS FOR ETHICS, according to Gray, is that the reality of human existence is of an ultimate diversity of incomparable forms of human flourishing. And this means that no single moral theory will be able to guide our conduct when we are confronted by moral dilemmas which force us to forsake one good for another. There is no metric which would enable us to calculate amounts of goodness to allow us to make tradeoffs. Ultimately, then, we have no reason "to abandon the richness and depth of moral life, with all its undecidable dilemmas, for the empty vistas of moral theory."

Yet while incommensurability is possible, it is not clear that it is of much relevance; for it seems only trivially true to say that some goods are incommensurable. All that seems to be happening is that Gray is pointing out that actions or choices have opportunity costs, and that there is no standard "value" by which all opportunity costs can be measured. Economists have known this since 1870. If a comparative judgment is to be made, a common denominator has to be found; that denominator is itself going to be a

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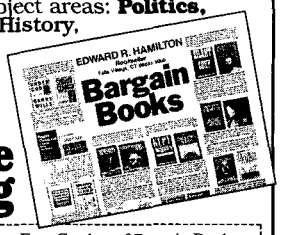

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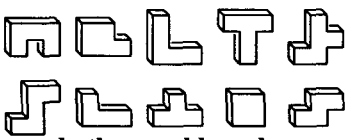

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product of judgment—whether one is comparing different architectural wonders or choosing between apples and bananas. One can choose one or the other in the latter case going on nutrition, or on sweetness, or on colorfulness, or even on price. Similarly, one can choose a metric for measuring dramatic worth—if we have some reason for wanting to do so. (Of course, there may be disputes about the desiderata, but there is no reason in principle why a standard cannot be articulated and established.)

NOW, GRAY DOES CONCEDE THAT, IN life, tradeoffs are made. What he argues, however, is that incommensurability means that there is no principle or measure showing the unique or universal rationality of particular tradeoffs. What follows from this truth of pluralism, in his argument, is that liberal institutions have no universal authority. For there are no universal human interests or values protected by liberal institutions. If we choose liberal institutions we are simply making a "radical" choice that has no deeper moral or rational basis. Yet it is hard to believe that Gray, or Berlin, really believes this. After all, is there no way of saying that liberalism is morally superior to National Socialism?

And indeed Gray notes that National Socialism is excluded by Berlin's requirement of "minimal universalism." According to Gray, this is a small concession: Recognizing a "common moral horizon" for the human species may disqualify some ideas of the good life (e.g., Nazi ideas), but it does not ground or privilege liberalism. This raises the question of what, exactly, liberalism is. I would argue that "minimal universalism" is precisely what characterizes liberalism. Whether or not his argument was wholly successful, Robert Nozick's idea of utopia as a framework within which different forms of good may be pursued was essentially a kind of minimal universalism. It points to the basic classical liberal or libertarian understanding that ways of flourishing are diverse, that reconciliation of all ways under a single, harmonious, conflictless whole is unlikely, that political institutions should regulate this conflict and facilitate the toleration of different ways by drawing boundaries permitting coexistence. Berlin's thought, if Gray's account is sound, reiterates this view. But it is not clear in what way it offers us a better version of the classical liberal story.

The one point Gray makes that is of some importance is not so much that liberalism cannot be given any secure foundation but rather that what he calls the "liberal form of life" is not to be privileged. Yet this point tells not so much against the libertarian version of liberalism—which accepts that within a libertarian framework illiberal communities may also be sustained. A liberal society, on this view, is not necessarily a society of liberal communities: It may include Amish and Hutterites; Muslims and Christians; separatists as well as cosmopolitans. What this view tells against is that version of modern liberalism, dominant in the academy, which holds that all of society must be brought under the influence of a dominant liberal standard—a standard of social justice—enforced through the agencies of the state. In the end, the central insight of classical liberalism is that human goals, practices, ways of life, are plural and not capable of being brought under control in a single harmonious whole. There are many reasons why this is so; our desire for economic gain, as well as our longing for social acceptance, are among them. The fact that values are sometimes incomparable is only of small importance.

The central insight of classical liberalism is that human goals, practices, ways of life, are plural and not capable of being brought under control in a single harmonious whole. The fact that values are sometimes incomparable is only of small importance.

IN THIS REGARD, WHAT BERLIN'S THOUGHT offers us is not a fundamentally different—let alone a better—version of liberalism. (Indeed, Berlin never set out to provide one.) At best, it offers a reminder of the virtues of moderation, and a warning against the optimism of fanatics. Not all things are possible in the best of all possible worlds. But once it has accepted that perfection is impossible, political theory can surely tell us more. Not because it can provide a blueprint, but because it can at least offer an artist's rendering that better enables us to see our circumstances. All treatises in political theory are flawed; but not all are without insight. Berlin's thought may have avoided the flaws that accompany any grand construction. But the philosophical payoff, as a consequence, is small.

John Gray's study of Berlin claims, ultimately, that Berlin is a hedgehog who knows one big thing. That thing is value pluralism, at whose core is the idea of incommensurability, which Berlin "deploys ...in his argument against the dominant tradition of Western thought." And this thing makes his position "a distinctive and novel one that subverts the received orthodoxies in moral and political philosophy." But in the end, Berlin is a philosophical historian of ideas who has really told us many different and interesting things—about thinkers and artists and movements of ideas. He is a fox. The big idea which Gray finds at the center of his thought is only one idea. It is not particularly big, or distinctive, or subversive, or new. And, if we take to heart Berlin's and Gray's counsels of philosophical moderation and caution, we should probably also wonder whether it is entirely true. ®

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Evolving Door

By Gregory Benford

Evolution Isn't What It Used to Be, by Walter Truett Anderson, New York: W.H. Freeman, 223 pages, $23.00

DOES THE CONVERGENCE OF BIOlogical and computer technology promise a radically different age? Yes, says futurist Walter Truett Anderson—but the synergistic convergence of these two, remaking ourselves, matters even more.

He sees a growing bio-info complex wrapping itself around our planet, beginning with gene banks, satellite monitoring of ecosystems, and "smart maps"; he envisions nothing less than a wired bioworld. Our current focus on the Internet forgets that the next century's premier emergent technology will be biological. Policy mavens looking only at information density and flow are missing a crucial element, says Anderson.

Enzymes—plainly the most important biotechnology of our era—already permeate many industrial processes. Unlike fossil fuels, they carry chemical programming which drives complex reactions, are renewable, and work at ordinary pressures and temperatures. But many biotech wonders to come will be surprises. Reminding us that "Bell Labs hesitated to apply for a patent on the laser because they couldn't see how it had any relevance to telephones," Anderson notes that even many of those driving the biotech industry do not see that there is no longer a clear boundary between biotech and plain biology.

Without much better handling of the rising tide of bio-info, we cannot possibly manage our world, warns Anderson, neatly extracting the principal lessons policy managers must grasp.

First, all information—defined as facts organized until they have relevance and purpose—is incomplete. Hoping that more data will resolve an issue and force a decision is just wrong: Information always widens the range of choices, rather than narrowing them.

Worse, bio-info won't be enough. It must be ramified into knowledge (information internalized, integrated) and brewed into wisdom (knowledge made super-useful by theory).

Finally, says Anderson, we should recognize that most people aren't policy wonks, and won't see the world as the info-suppliers do. Most see wilderness as the home of Bambi, not as a complex weave where bugs are as vital as beautiful mammals.

Hence, public controversies frequently pit people talking statistics against those talking myth. The result: "Rationalists with their hard disks full of economic or scientific information bump against invocations of Frankenstein and Gaia."

ONCE CREATED (AND CONTRARY TO CONspiracy theorists), information both leaks and cannot be called back. This is especially true of bio-info. Vaccination, whereby "we routinely have our immune systems remodeled," has transformed population profiles, letting most of us reach old age. Nobody could halt its use, once known, though "it was opposed by Thomas Malthus...who—correctly—foresaw that it would remove a control on population growth." Similarly, the use of

Walter Anderson: Change will be profoundly driven by the coupling of biology and data.

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antibiotics quickly became global, and their ready application now has accelerated devolution of resistant strains—a foreseeable backlash, in retrospect. Such ordinary augmentations we are used to, and those coming—vaccines against male baldness, say, or tooth decay—seem to promise easy rewards. This century has been the blithe honeymoon period between biotech and humanity, with benefits far outweighing hazards.

The old treatment modes—preventive, palliative, and curative—are giving way to a powerful fourth: substitutive. I have an artificial left shoulder, wired back together after a softball accident. Soon I may need a pacemaker, or even some of the odder additions people accept: artificial sphincters, prostheses, cochlear implants to restore hearing. Mechanical, they seem as natural to us now as eyeglasses and tooth fillings.

Anderson predicts that the next major augmentation will probably be a wholly "new chapter in the history of animal husbandry—and indeed in the history of life on Earth—because there has never been an animal able to exchange entire organs with those of other species."

Human-human transplants are commonplace, with new anti-rejection drugs and better surgery spurring their survival. In the last five years costs have been cut nearly in half, so that a kidney transplant now costs $50,000, and a liver $200,000. But with transplant numbers rising by 50 percent in six years, donors are scarce. Pigs have organs the right size for humans, and such "transgenic" animals will be used instead, possibly this year. Genetically engineered with human proteins to cloak offending pig molecules, pig organs will fend off our defenses, reducing the rejection problems. The key development is information at the molecular level.

Predictably, animal rights advocates oppose this approach. Yet transgenic transplants confront these views with an uncomfortably clear issue. Plainly, people will die immediately without the organs, as they do now. This is unlike diseases such as AIDS, which impose a heavy toll on lab animals in pursuit of a future cure. Transgenics presents us with concrete either/or decisions, right now. As our command of bio-info increases, such choices will get more stark, and rancor will rise.

"PRECISION FARMING" WILL BE AN outcome of the bio-info web. Satellite data will tell a farmer how much fertilizer to disperse in real time, conveyed to him on his tractor (air conditioned, computerized, cellular to the max). Back in the barn, "geneware" installed in cows can yield medicinal milk, rich in proteins like insulin which we now must laboriously manufacture.

"Nature" can't be restored to its immaculate historic state because it is ever-changing. "No matter how much we liked *Pocahontas*," notes Anderson wryly, "we really don't know how to leave nature alone."

Even the usual farm waste, such as corn husks and stalks, wood chips and pulp, may be used as a base to brew up food directly, using suitably engineered "smart bacteria." Such tight networks can perhaps leapfrog the heavy-chemical, heavy-machinery phase of agriculture to a smart-farming mode.

This savvy farmer is most needed in the undeveloped world, where the great population crush of the next century will arise. The common liberal orthodoxy that living close to the land leads to eco-awareness is historically naive, considering that Mesopotamia, northern Africa, and the Mayan civilization were ruined by people who had lived there quite a long while. "Then there's also the embarrassing matter of the tendency of rural people to hate environmentalists," says Anderson.

Rather than invoke such fantasies, and the parallel image of a pristine, steady-state nature, Anderson believes that genuinely progressive thinking should embrace chaos theory. Naive, old-style "bioregionalism" that tries to get us all to settle down and be virtuous ignores that nature alters across time and place, hovering in states bordering on instability.

Indeed, "nature" can't be restored to its immaculate historic state because it is ever-changing, even without us. Any reclaiming we do installs a kind of virtual nature, not a mythical absolute state. This sobering fact at least consoles us for our meddlesome temper. "No matter how much we liked *Pocahontas*," notes Anderson wryly, "we really don't know how to leave nature alone."

ANDERSON SEES HUMAN DESTINY COMING out of three information systems: genetic, cultural, and "exosomatic"—information gathered beyond our bodies, but linked firmly to us, like the bio-info gathered globally. Each of these three "lineages" advances our evolution, with the exosomatic rate now accelerating beyond view.

Where should we let it drive us? No moral anchors here seem trusty. Invoking nature with its implied supremacy ignores that many cultures have fundamentally differing ideas of even what nature *is*, much less how it should work. Other cultural guidelines—religious doctrine, scientific objectivity, fashion—are similarly mutable and local, necessary perhaps but not sufficient as guides. The "blessing and scourge of our time," says Anderson, is the dizzying multitude of our options. And mere cultural relativism won't work; cultures must clash when the questions are greater than regional.

It is no easy task predicting who or what will win in this future. Wrenching perspectives beckon: Perhaps the quick, easy info flow means that biotech won't operate by the old rules of resource scarcity. What happens to patent rights in this whirl? Should better seeds be immediately distributed to the tropics, say, without worrying about paying their development costs in the north? Who will decide such matters?

Alternatively, will info-savvy groups

"skip merrily onward into the bio-information society while the unenlightened masses remain mired in polluted and overcrowded misery"? The traditional right frets over harm to commerce, while the left worries over damage to cultural and social structures. Some think "information wants to be free," and others fear the gusher will swamp frail Third World institutions, leaving them naked in a storm of change.

An insightful example is the potential super-drug, interleukin-12. If it proves effective against Third World scourges such as malaria and leishmaniasis, pressures to develop and deliver it to the World Health Organization will mount. Almost certainly, international agencies will want to give it away, providing little return revenue stream to the company that developed it—and thereby destroying the basic incentive structure of pharmaceutical innovation. So who will create new drugs under such a system?

A deeper issue is how we should value the needs of future generations, as exalted in the sustainable-development model, against the wealth and welfare of those living now. Anderson raises the question but provides no answer. Some, like Kevin Kelly in *Out of Control*, take refuge in the moral free market of self-organization. Overall governance then must arise from humble, interdependent acts done locally in parallel.

ANDERSON IS SKEPTICAL THAT SUCH DECISIONS will necessarily play well in a highly political arena. He meditates upon an "information standard" like the old gold standard, replacing the state-centered visions of the last few centuries, skirting the world-centered visions of the one-worlders, ending with a multi-centric model, a "polyarchy." Within this interactive soup will float old-fashioned voices like the Roman Catholic Church, autocrats, multinationals, wealthy hackers, and media moguls. Meanwhile, the pot stirs and bubbles, fed by media circuses which fixate upon "contests, conquests and coronations" more than the lofty imperial views of usual ruling elites. Insights can compete with each other, Darwin-nowed until they command a price. Since they can come from anywhere, a multi-centric world should be more efficient, delivering hot ideas and criticisms, sharpening the survival skills of institutions which can porously use the flow. Still, hard assets will grow in value, too. Competition between gold and information needs more attention before we embrace information as the new standard.

Anderson has an admirable grip on the broad view, describing the process of change and how it can affect our perspectives on ourselves and the world. Most of his examples stem from the present or the near past. Using glossy generalizations, the book is long on rhetoric, short on specific visions. Precision of prediction is impossible, or at least a misleading goal, but working out ideas aloud can give a feel for the fragility of prediction itself, and thus *why* we can only know so much.

One example he does mention is the MIT Media Lab notion of a "body net," with people meshed thoroughly with their computers. I got a feel for how this might evolve several years ago at MIT, at lunch with a young man wearing a heavy set of glasses. His left eye sported a see-through computer screen. After looking through them a few minutes I could navigate through the restaurant while calling up data into my left eye, using a touch pad in my left hand. I could access data, answer e-mail, or take notes while talking or walking—paradise for Type A personalities.

Will such augmentations be more than odd gadgets? Divining the future doesn't demand that we guess, but Anderson's case—that biology and data, tightly coupled, will drive change more profoundly than any other forces afoot in our time—seems sound. Answers will come slowly, and as he remarks, we will have to learn our way, sometimes painfully, through the experience. ®

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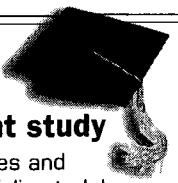

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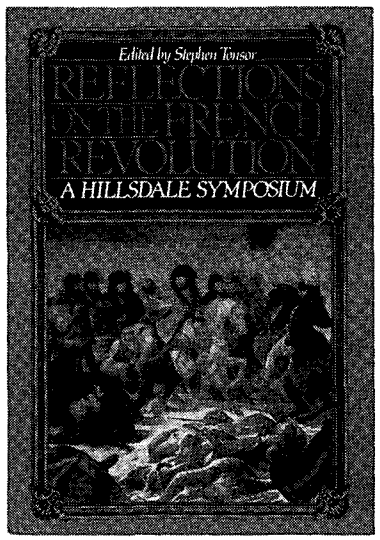

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Morris the Cad

By Thomas W. Hazlett

The personal becomes the political.

YOU MAY HAVE FORGOTTEN BILL Clinton's 1992 campaign theme, the "New Covenant." Then, the Democrats' message to America was: The rich keep getting richer, while the poor get poorer. Median family income is in decline, and it's all the fault of 12 years of Reagan-Bush. We don't need to be lectured on "family values" by politicians in Washington, said the Dems. Americans *have* family values; our government doesn't. A New Covenant—a sacred bond between the citizen and the state—was to be put in place.

In 1996, these Democrats love to tell Americans all about their family values—and their families. And why not? Chelsea's a whole lot cuter than the statistics on median family incomes during the Clinton years. The "family values" game is really easy, and just about anyone can play.

Even Dick Morris.

He's a world-class "family values" champion. He bulged with pride as he scripted the "Families First" Democratic National Convention. Then, of course, just as the president was set to make his acceptance speech, Morris made headlines of his own: A tabloid reported, complete with photos and check copies, that he'd been shacking up in his posh hotel suite with a $200-an-hour hooker. Perhaps Morris was just making good on the Democrats' 1992 pledge to create "good jobs at good wages."

It would be swell if everyone's personal life—as opposed to their career in politics—could be ushered off stage. But no one is even seriously contemplating that bold step: This year's political conventions were almost gavel-to-gavel Kodak moments.

Bill Clinton ran as the Man from Hope (as in 1992), who loves his wife and gets the biggest kick out of reading bedtime stories to Chelsea. Bob Dole recounted his autobiography, trotting out his beloved Liddy for the really sappy part. Now we know more about Russell, Kansas, per capita, than any other village—er, town—in America.

But the turn to autobiography is hardly openness to inquiry. The *candidate* chooses what's fair, and everything else is adjudged foul territory. To scrutinize public claims of marital bliss or familial devotion is to engage in the lowest form of political discourse.

Pols are now free to stage the most idyllic domestic tranquility or the most intense personal epiphanies (even using historically enhanced photography, à la Al Gore's brazen revisionism about the evils of tobacco), unconstrained by petty annoyances such as truth and accuracy. Any wonder we saw the Oprahization of the political conventions?

THE MANNER IN WHICH THE DICK MORRIS scandal was revealed—something which received virtually no comment in the press—yields a reading on just how cold the corpse of veracity has become. Morris did not deny being shacked up with a call girl while crafting the president's "family values" campaign theme. Instead, he issued a statement citing "the sadistic vitriol of yellow journalism" as his reason for *never* responding to the allegations forthcoming in the *Star*.

Meanwhile, the White House claimed not to know whether the scandalous charges were accurate; either the administration was being untruthful, or it maintained plausible deniability via its "don't ask, don't tell" policy. Spokesman Mike McCurry did, however, unleash the administration's wrath upon those who broke the story. According to the *Chicago Tribune*, McCurry "urged the news media to consider the source of the story, a tabloid that he said publishes stories 'in the space alien category.'"

And this is where the "family values" of high government officials have taken us. When a breach of conduct is alleged, even one of scandalous proportions, the truth of such allegation is deemed irrelevant.

Neither Morris, nor McCurry (with ready access to Morris), feels that getting the matter settled in terms of *what actually happened* is the appropriate course of action. Instead, the response is to shift the blame, to trash one's opponent (delegates in Chicago largely agreed with one who told the *Tribune* that he suspected "sabotage"), and to lash out at the appalling lack of class demonstrated by those who would bring up such a thing. Puh-leaze.

Dick Morris boasted that he would use all levers in pursuit of the electoral jackpot. The *Star* reports one such application, when Morris bragged to his paramour that she was one of only seven people in the world to know about "life on Mars"—the news was being embargoed for several days so as to be dropped right on top of (and help crowd out) the story of Dole's running mate pick.

I doubt if information regarding Morris's evolving views of the marital contract are really prime information for voters in Decision '96. But in an election where the policy promises of 1992 mean nothing and airbrushed photos of nuclear families everything, where else can we look for guidance? And who, then, to believe? As the White House likes to say, "consider the source." ®

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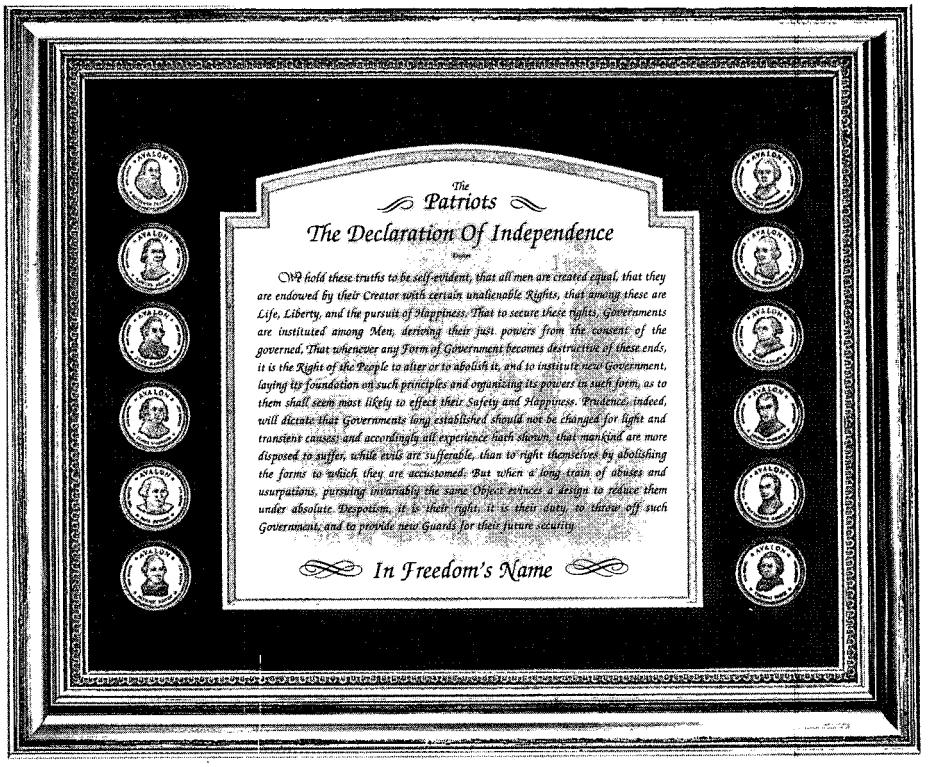
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